

**2016**

**Missouri**

# **Legal Malpractice Insurance Report**

**Statistics Section  
June 2017**



**DIFP**

**Eric R. Greitens**  
Governor

Department of Insurance,  
Financial Institutions &  
Professional Registration

**Chlora Lindley-Myers**  
Director



# **MISSOURI LEGAL MALPRACTICE INSURANCE REPORT 2016**

**Department of Insurance, Financial Institutions & Professional Registration  
Statistics Section  
June 2017**



***Also Available from DIFP***

**Reports:** The following reports are also available:

- *Missouri Market Share Report*
- *Missouri Real Estate Malpractice (Closed Claim Report)*
- *Missouri Legal Malpractice (Closed Claim Report)*
- *Missouri Products Liability (Closed Claim Report)*
- *Missouri Medical Malpractice Insurance Report*
- *Missouri Health Maintenance Organization Report*
- *Missouri Life, Accident & Health Supplement Report*
- *Missouri Property and Casualty Supplement Report*
- *Missouri Commercial Liability Report*
- *Missouri Mortgage Guaranty Report*
- *Missouri Uninsured Automobile Report*

**Databases:** *for data requests, contact the Statistics Section at 573-751-3163. Some data are available for a fee.*

- *Medicare Supplement Experience Data*
- *Property and Casualty Supplement Data*
- *Missouri Zip Code data for homeowners/ dwelling fire, farmowners (dwelling only, mobile home, earthquake, and private passenger automobile insurance.*

Many reports, including this complaint report, are available at no cost on the DIFP website, at <http://insurance.mo.gov/reports/>. For paper copies, inquire with the Statistics Section at the above number.

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## DEFINITION OF TERMS

**Indemnity Paid:** The sum of all payments made during the year for the benefit of insurance claimants, before reinsurance has been ceded and/or assumed. These payments include amounts paid in the current year for claims arising from coverage in prior years and exclude amounts which will be paid in future years for claims arising from the current year. Hence, this item is not a measure of the actual cost of current coverages, but only of current cash flows.

**Loss Adjustment Expenses:** The cost involved in an insurance company's adjustment of losses under a policy.

**Direct Premiums Written:** The dollar amount charged when a policyholder contracts for insurance coverage before reinsurance has been ceded and/or assumed.

**Direct Premiums Earned:** The part of premium attributable to the coverage already provided in a given period before reinsurance has been ceded and/or assumed.

**Direct Losses Incurred:** The sum of direct losses paid plus an estimate at the close of the year of the amounts to be paid in the future for all claims arising from the current and all prior years, minus the corresponding estimate made at the close of business for the preceding year. Incurred losses reported include estimated amounts unpaid for incurred-but-not-reported (IBNR) claims.

**Loss Ratio:** The dollar amount of direct losses incurred divided by the dollar amount of premiums earned for the particular line of business being analyzed, expressed as a percentage. This is an accounting representation of the portion of each premium dollar which is needed to honor a company's promise to pay claims.





## **LEGAL MALPRACTICE INSURANCE REPORT EXECUTIVE SUMMARY**

This report summarizes the legal malpractice insurance experience in Missouri from 2007 to 2016.

The charts, graphs and tables in this report are limited to closed claim information and were constructed from data collected by the Department of Insurance, Financial Institutions & Professional Registration as required by Section 383.077 RSMo. The premium and loss data, obtained from the Missouri Page 19 Supplement to the companies' annual statements are presented in the final section.

In 2016, the loss ratio for legal malpractice insurance in Missouri was 38 percent. For the 10-year period of claims closed<sup>1</sup>, 537 (24 percent) were closed with payment. Claims closed in 2016 totaled 183, a 2 percent increase from the previous year. The average payment was \$145,046.

The cost to an insurer for settling legal malpractice cases (called loss adjustment expense, consisting of legal fees, claim adjustment costs and related items) has fluctuated over the past 10 years. In 2016, the average loss adjustment expense for all claims closed with payment was \$38,913 compared to \$87,574 in 2015.

Indemnity amounts are categorized by claim characteristics, including:

- Area of law in which the insured was retained by the claimant.
- Major activity in which the lawyer was engaged at the time the alleged error or omission occurred.
- Alleged error or omission that was the most significant reason for making the claim.
- The legal disposition of the claim at the closing date.
- The number of years the insured had been in practice at the time of the alleged error or omission.
- The relationship of the insured to the claimant.

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<sup>1</sup> Claims closed may have resulted from incidents in any previous period.

By area of law, the largest share of claims closed in 2016 (37 of 183) was initiated by plaintiffs in *collection and bankruptcy*. The largest proportion of all claims closed in 2016 under the major activity code occurred during *commencement of action or proceeding*. Of all claims paid during 2016, 58 percent were settled *before trial or hearing* on the alleged malpractice.

Ninety-seven percent of losses in 2016 occurred among attorneys with *more than 10 years of practice*. The insured's relationship to the claimant is partitioned into four subclasses: *free legal service, non-client, member of pre-paid legal plan and client other than free service or prepaid legal plan*. Seventy-seven percent of 2016 claims occurred in the category of *client other than free legal service or member of pre-paid legal plan*.

Only 14 companies reported writing legal malpractice insurance in Missouri for 2016. Of these, the Bar Plan Mutual Insurance Company was by far the largest, with over 63 percent of the legal malpractice insurance market in this state.

This report was compiled using information submitted by insurance companies. As a result, the accuracy of this report is dependent upon the correctness of each company's data. Copies of this report will be made available in Braille, large print or on audio cassette upon request. Any questions regarding this report should be addressed to the Statistics Section, Department of Insurance, Financial Institutions & Professional Registration, P.O. Box 690, Jefferson City, MO 65102-0690.

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**TEN YEAR  
SUMMARY  
(2007-2016)**



# LEGAL MALPRACTICE EXPERIENCE

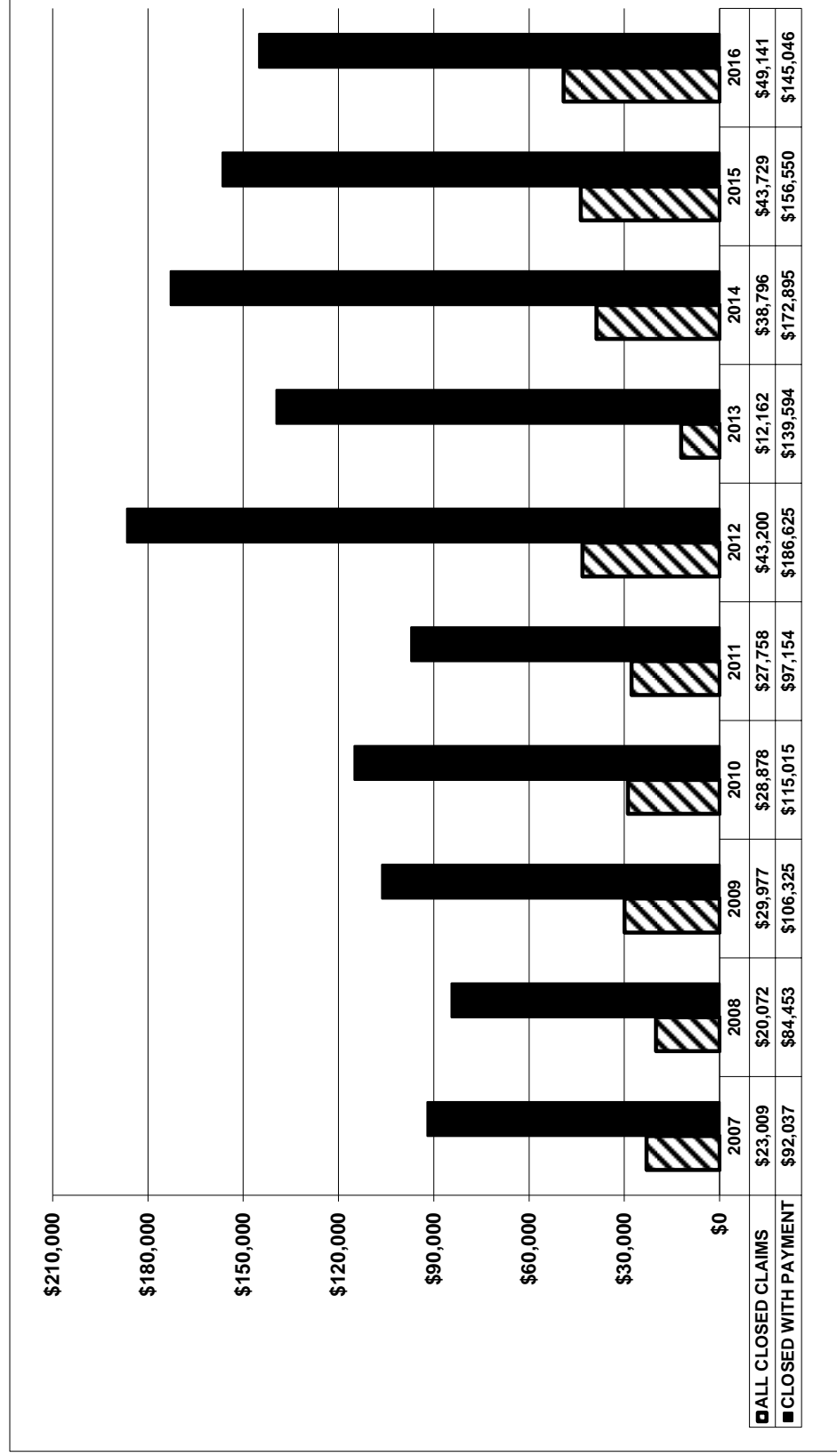
## TEN YEAR SUMMARY

(2007-2016)

CLOSED CLAIMS	NUMBER OF CLAIMS	PERCENT OF CLAIMS	TOTAL INDEMNITY PAID	AVERAGE INDEMNITY PAID	TOTAL LOSS EXPENSES PAID	AVERAGE LOSS EXPENSE PAID
All Closed Claims	2,216	100.0%	\$67,692,453	\$30,547	\$43,924,498	\$19,822
Closed with Payment	537	24.0%	\$67,692,453	\$126,057	\$25,192,828	\$46,914
Closed without Payment	1,680	76.0%	\$0	\$0	\$18,731,670	\$11,150
Claims Settled Through Court Proceedings	219	9.9%	\$7,665,582	\$35,003	\$13,182,808	\$60,195
Court Proceedings Resulting in Payment	27	1.2%	\$7,665,582	\$283,910	\$4,148,296	\$153,641

# MISSOURI LEGAL MALPRACTICE INSURANCE

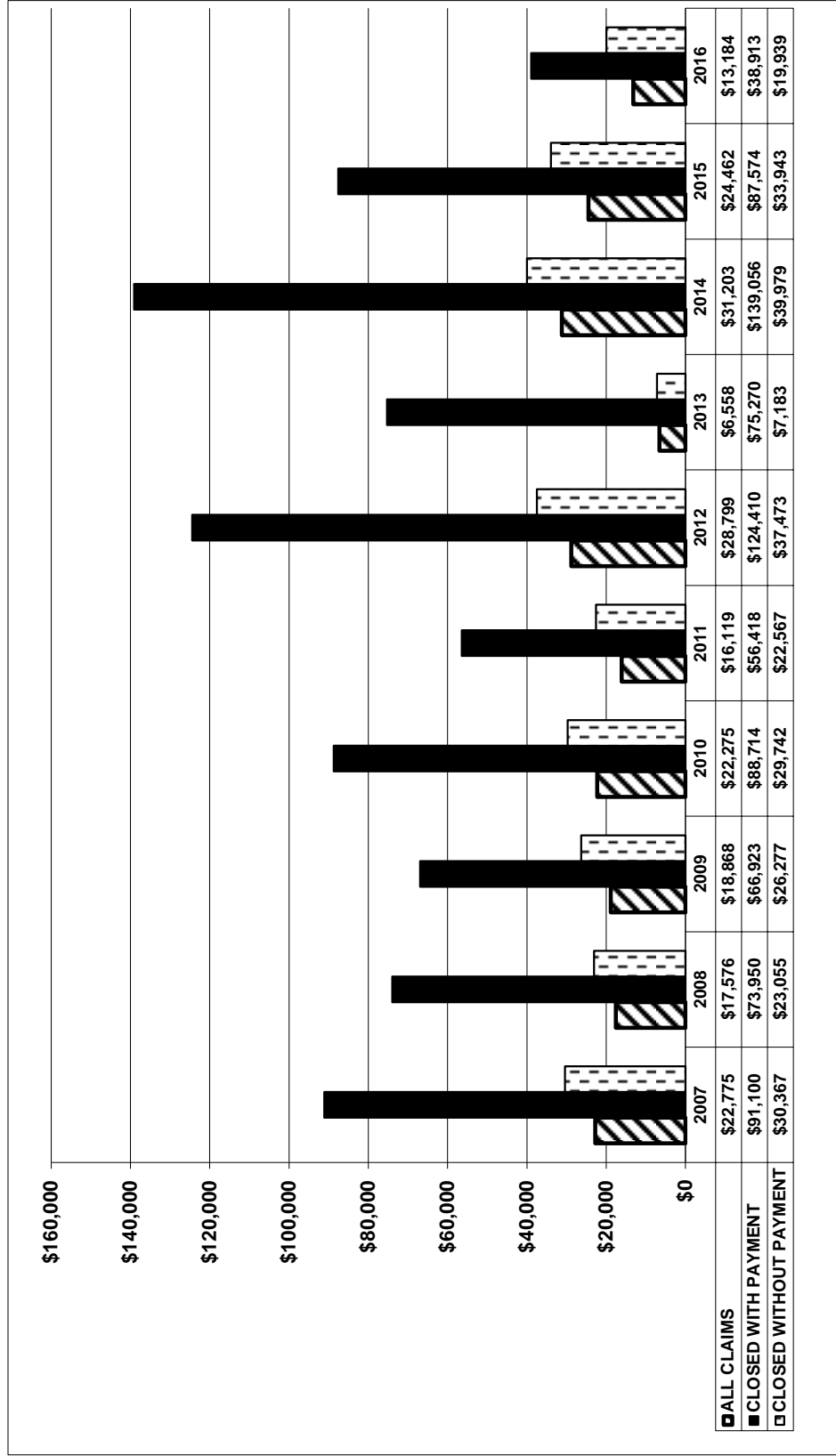
## AVERAGE PAID CLAIM





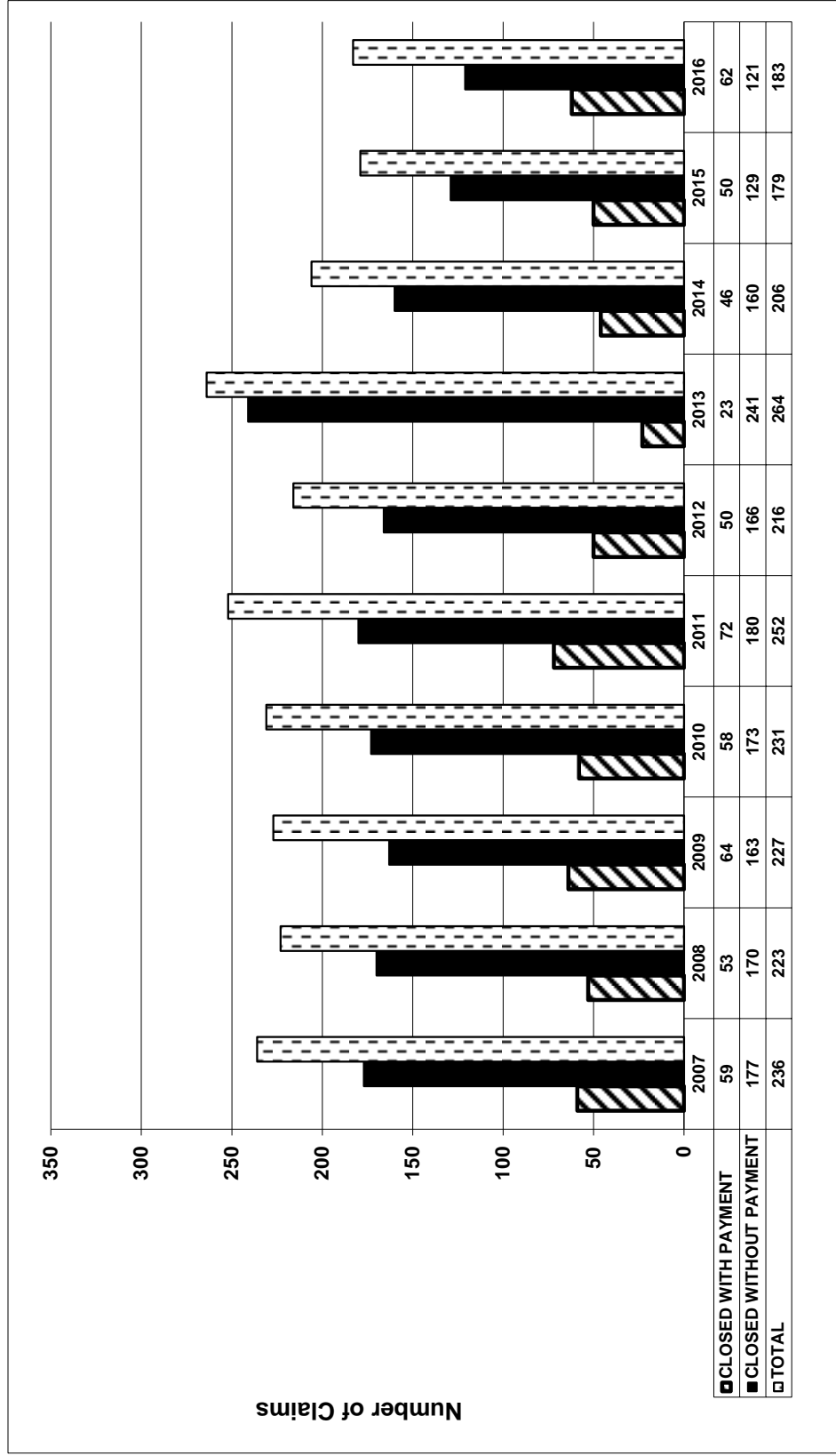
# MISSOURI LEGAL MALPRACTICE INSURANCE

## AVERAGE PAID LOSS ADJUSTMENT EXPENSE



# MISSOURI LEGAL MALPRACTICE INSURANCE

## CLAIM COUNT 2007-2016



**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
AREA OF LAW**



# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016

AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BI/PD - PLAINTIFF	472	156	29.05%	\$152,024	\$23,715,783	35.03%	\$23,521
COLLECTION & BANKRUPTCY	353	64	11.92%	\$45,782	\$2,930,019	4.33%	\$10,619
REAL ESTATE	267	52	9.68%	\$94,016	\$4,888,846	7.22%	\$9,936
FAMILY LAW	245	53	9.87%	\$75,523	\$4,002,726	5.91%	\$13,185
ESTATE, TRUST & PROBATE	244	61	11.36%	\$102,779	\$6,269,544	9.26%	\$19,530
CORPORATE & BUSINESS ORGANIZATION	111	22	4.10%	\$167,327	\$3,681,202	5.44%	\$13,872
BUSINESS TRANSACT/COMMERCIAL LAW	91	29	5.40%	\$197,114	\$5,716,315	8.44%	\$60,959
CRIMINAL	78	9	1.68%	\$40,663	\$365,963	0.54%	\$10,320
WORKERS COMPENSATION	73	20	3.72%	\$191,251	\$3,825,015	5.65%	\$8,105
BI/PD - DEFENDANT	58	12	2.23%	\$170,916	\$2,050,989	3.03%	\$39,802
CIVIL RIGHTS & COMMISSION	51	10	1.86%	\$154,425	\$1,544,250	2.28%	\$11,901
LABOR LAW	48	18	3.35%	\$148,182	\$2,667,277	3.94%	\$26,689
CONSUMER CLAIMS	26	7	1.30%	\$94,357	\$660,499	0.98%	\$35,533
TAXATION	20	5	0.93%	\$265,634	\$1,328,169	1.96%	\$20,700
LOCAL GOVERNMENT	18	4	0.74%	\$215,293	\$861,172	1.27%	\$29,024
PATENTS, TRADEMARKS, COPYRIGHTS	15	4	0.74%	\$196,875	\$787,500	1.16%	\$171,240
CONSTRUCTION (BUILDING CONTRACTS)	14	5	0.93%	\$338,937	\$1,694,684	2.50%	\$60,333
SECURITIES (S.E.C.)	14	2	0.37%	\$83,750	\$167,500	0.25%	\$23,290
GOVERNMENT CONTRACTS & CLAIMS	8	2	0.37%	\$52,500	\$105,000	0.16%	\$3,567
IMMIGRATION & NATURALIZATION	6	1	0.19%	\$100,000	\$100,000	0.15%	\$15,796
ENVIRONMENT	3	1	0.19%	\$330,000	\$330,000	0.49%	\$7,548
ADMIRALTY	1		0.00%	N/A	\$0	0.00%	\$0
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2016

AREA OF LAW	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
COLLECTION & BANKRUPTCY	37	7	11.29%	\$8,986	\$62,900	0.70%	\$3,754
ESTATE, TRUST & PROBATE	30	11	17.74%	\$51,168	\$562,846	6.26%	\$12,756
BI/PD - PLAINTIFF	27	7	11.29%	\$205,214	\$1,436,495	15.97%	\$12,879
REAL ESTATE	19	4	6.45%	\$37,250	\$149,000	1.66%	\$8,268
FAMILY LAW	18	9	14.52%	\$61,528	\$553,750	6.16%	\$19,230
CRIMINAL	11	2	3.23%	\$44,000	\$88,000	0.98%	\$6,172
WORKERS COMPENSATION	9	3	4.84%	\$963,757	\$2,891,271	32.15%	\$13,273
LABOR LAW	6	5	8.06%	\$197,551	\$987,754	10.98%	\$34,464
CIVIL RIGHTS & COMMISSION	5	3	4.84%	\$341,667	\$1,025,000	11.40%	\$51,975
BI/PD - DEFENDANT	4	2	3.23%	\$220,104	\$440,207	4.90%	\$9,366
BUSINESS TRANSACTION/COMMERCIAL LAW	4	3	4.84%	\$104,833	\$314,500	3.50%	\$10,000
CONSUMER CLAIMS	4	2	3.23%	\$18,000	\$36,000	0.40%	\$7,765
CORPORATE & BUSINESS ORGANIZATION	4	3	4.84%	\$105,491	\$316,473	3.52%	\$63,972
TAXATION	2	1	1.61%	\$128,669	\$128,669	1.43%	\$3,774
ADMIRALTY	1	0	0.00%	N/A	\$0	0.00%	\$0
CONSTRUCTION (BUILDING CONTRACTS)	1	0	0.00%	N/A	\$0	0.00%	\$0
LOCAL GOVERNMENT	1	0	0.00%	N/A	\$0	0.00%	\$14,109
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

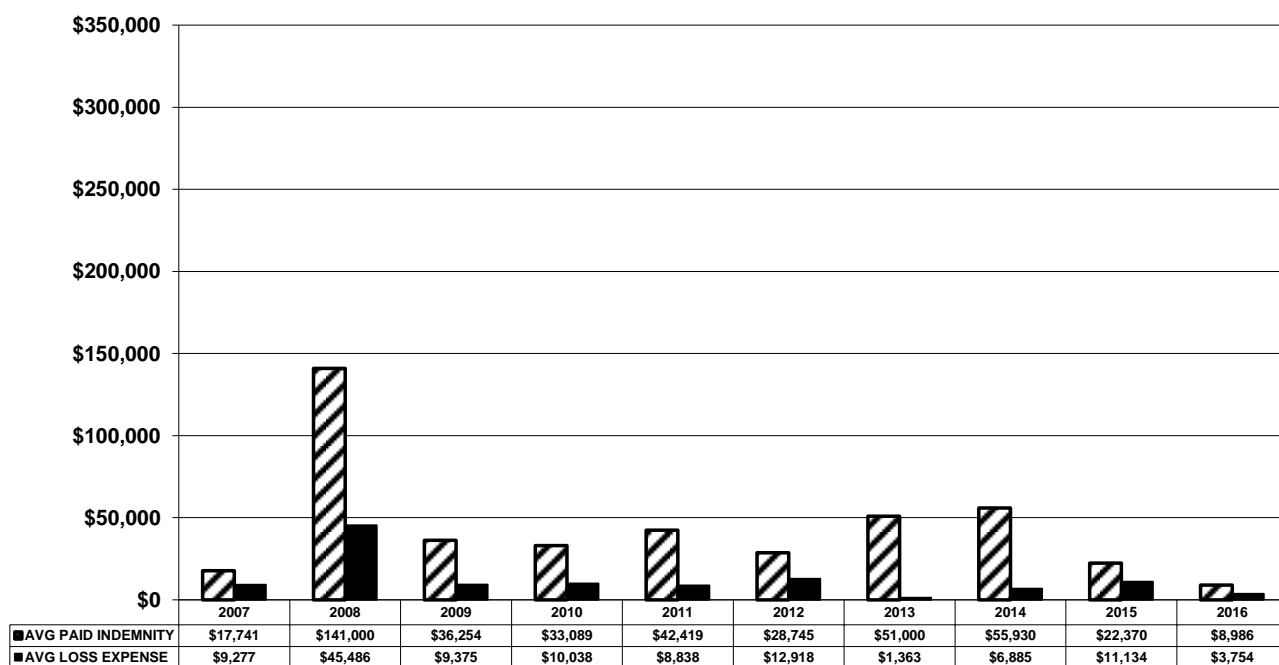
**TRENDS  
OF THE TOP TEN  
AREAS OF LAW  
OF 2016**



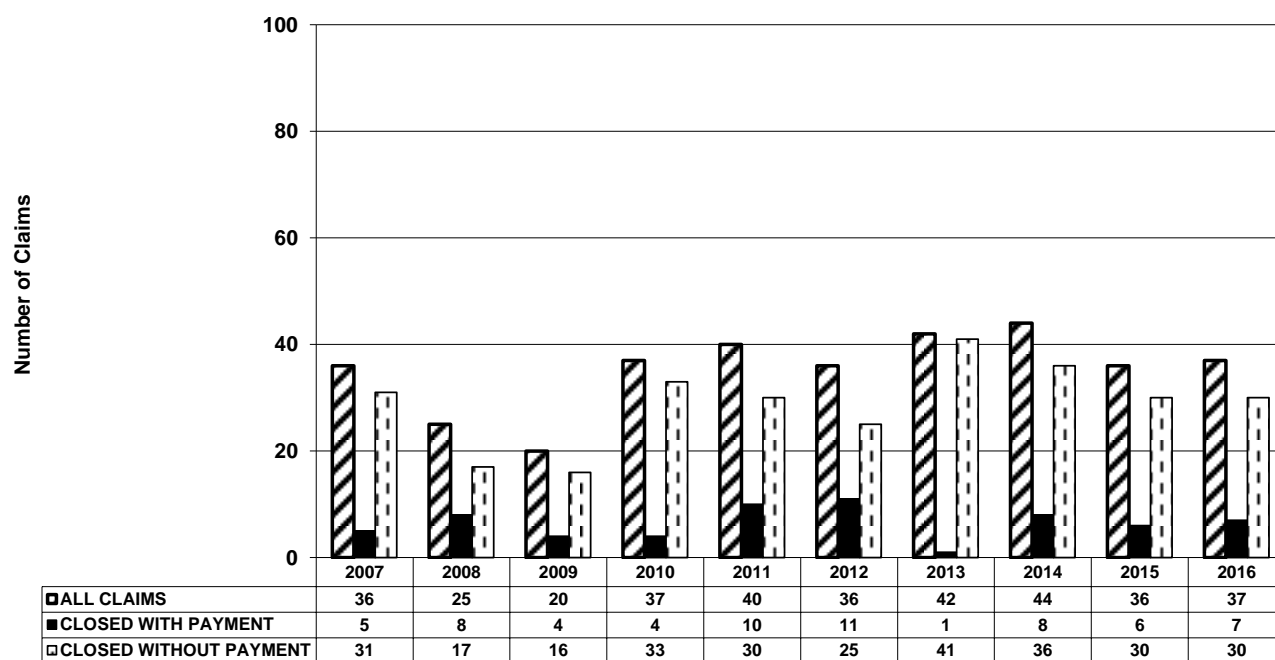


## COLLECTION & BANKRUPTCY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

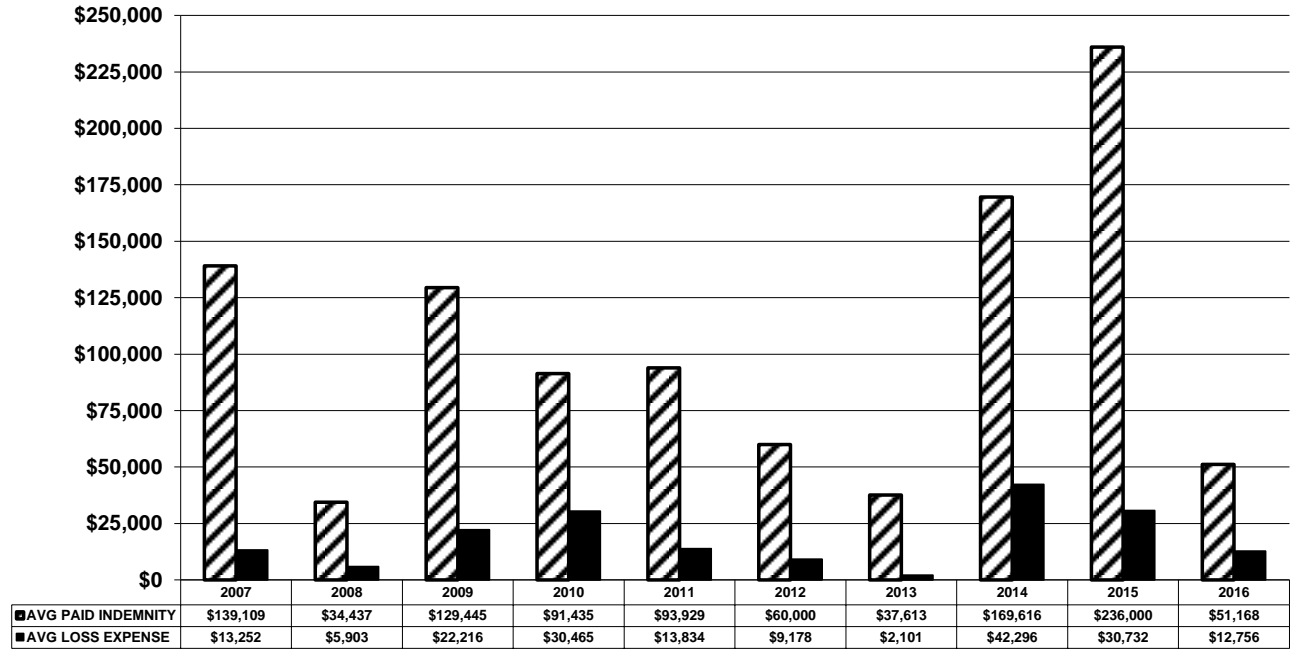


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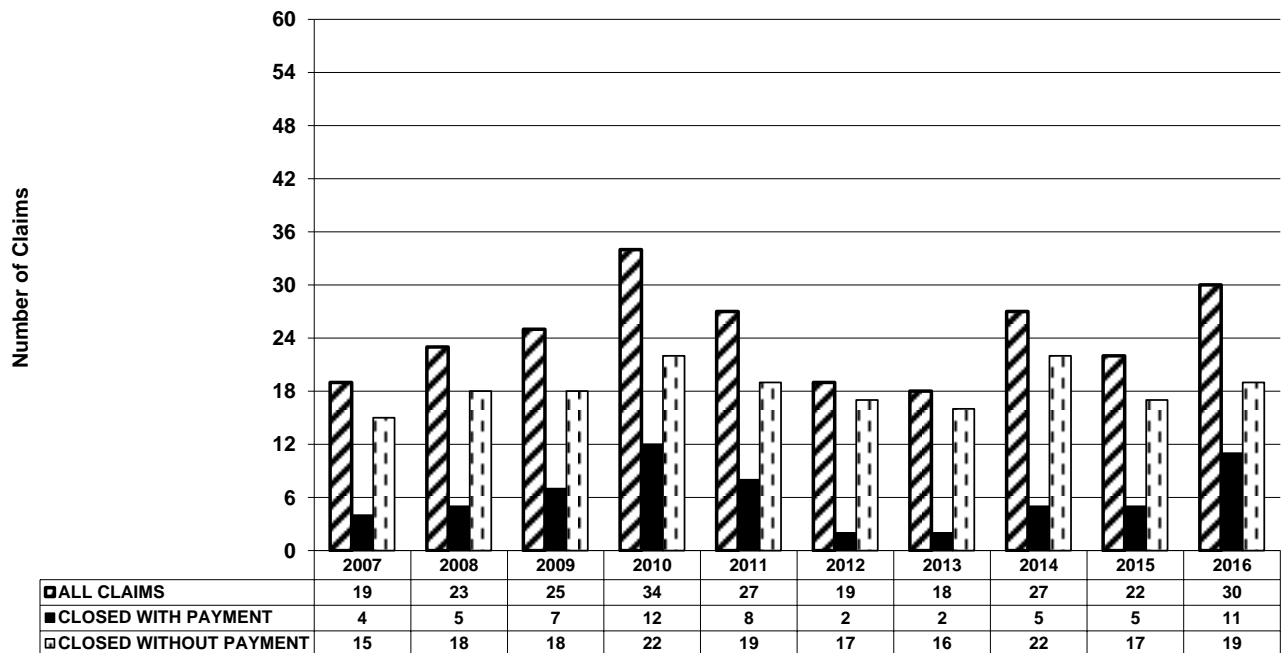


## ESTATE, TRUST & PROBATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

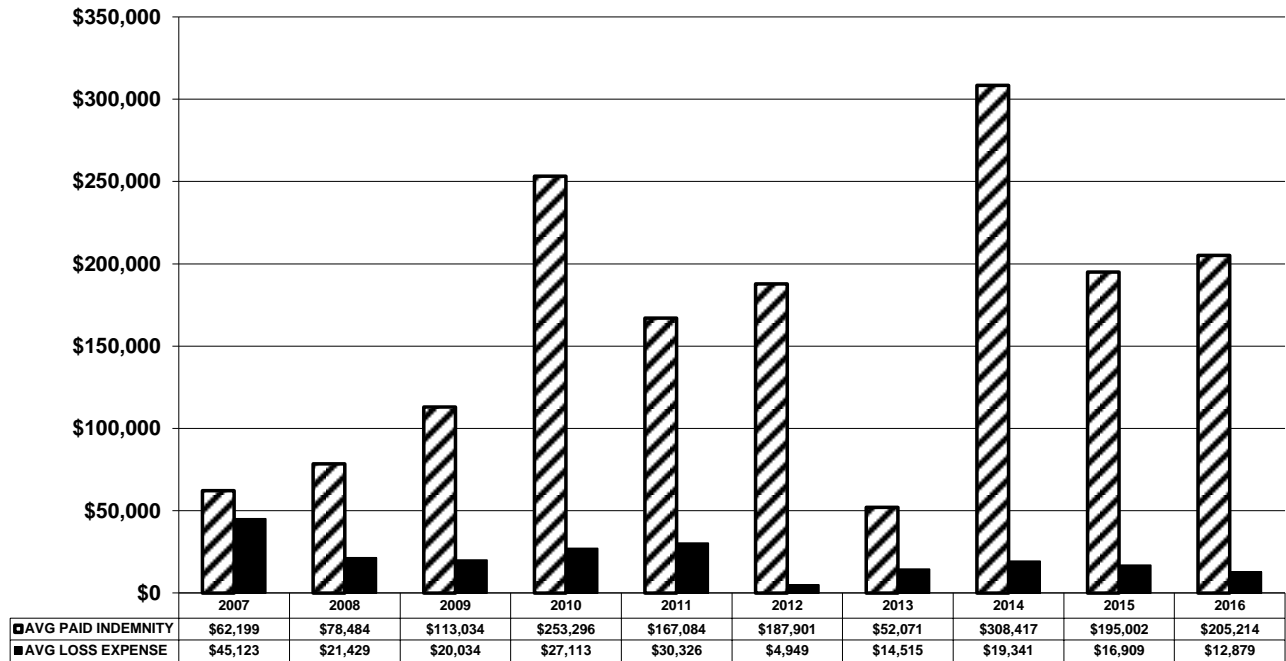


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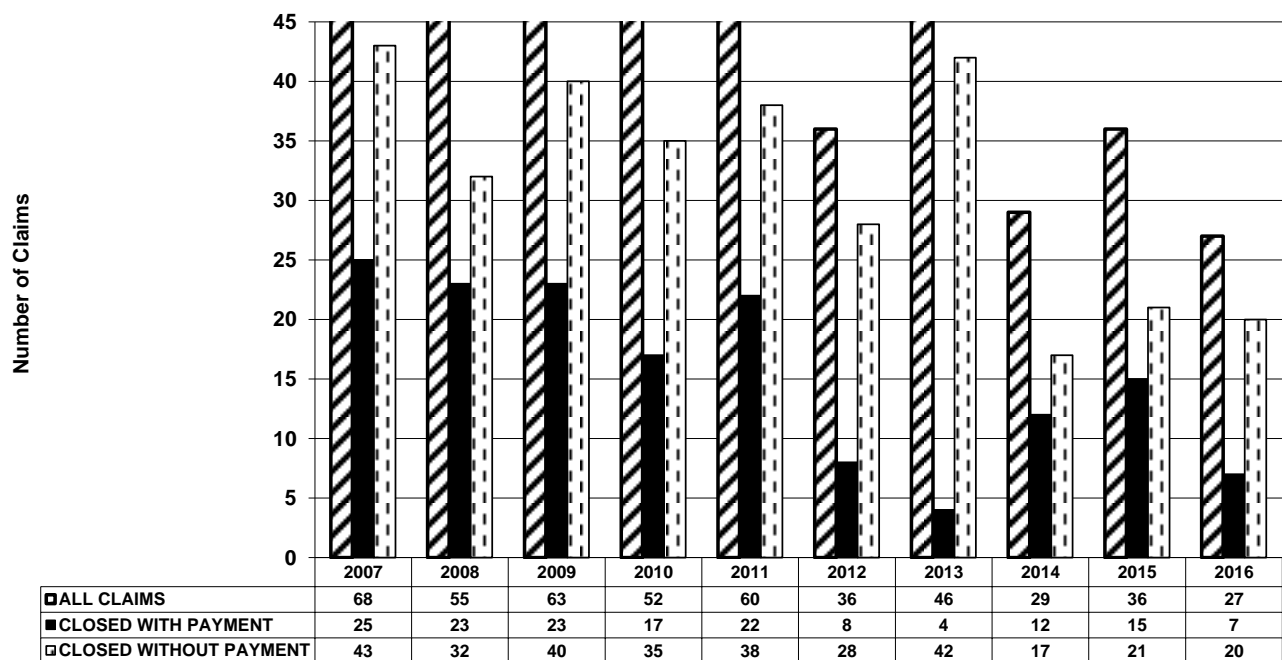


## BI/PD - PLAINTIFF

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

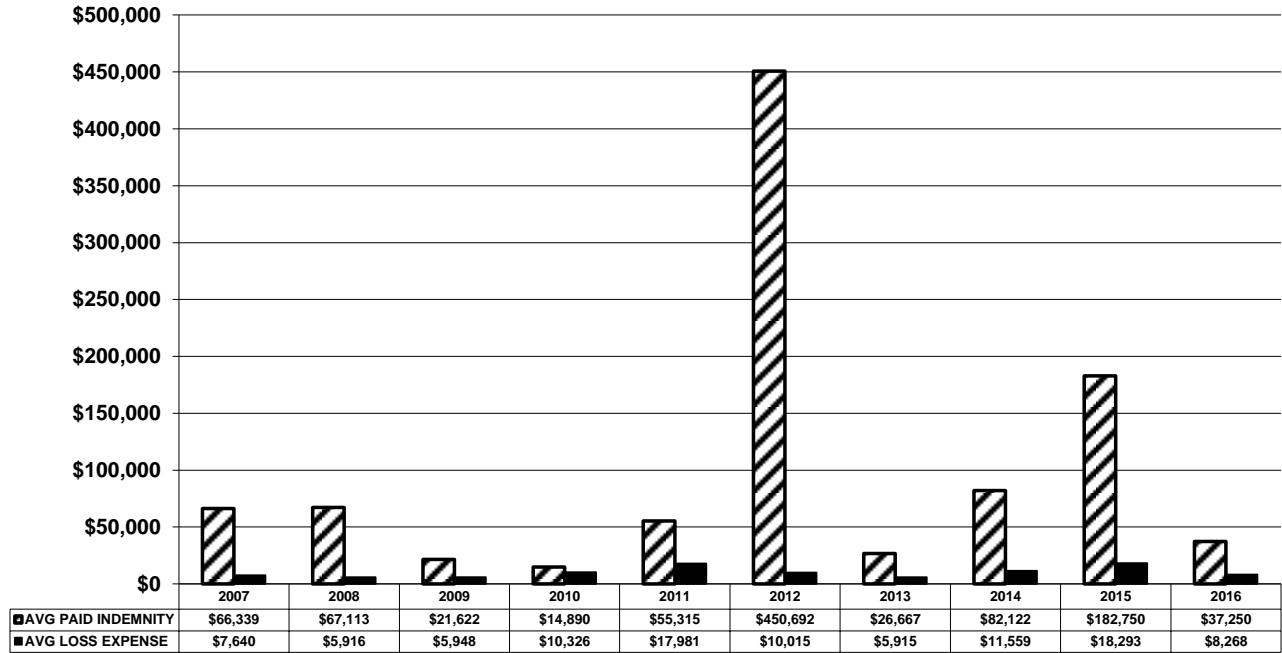


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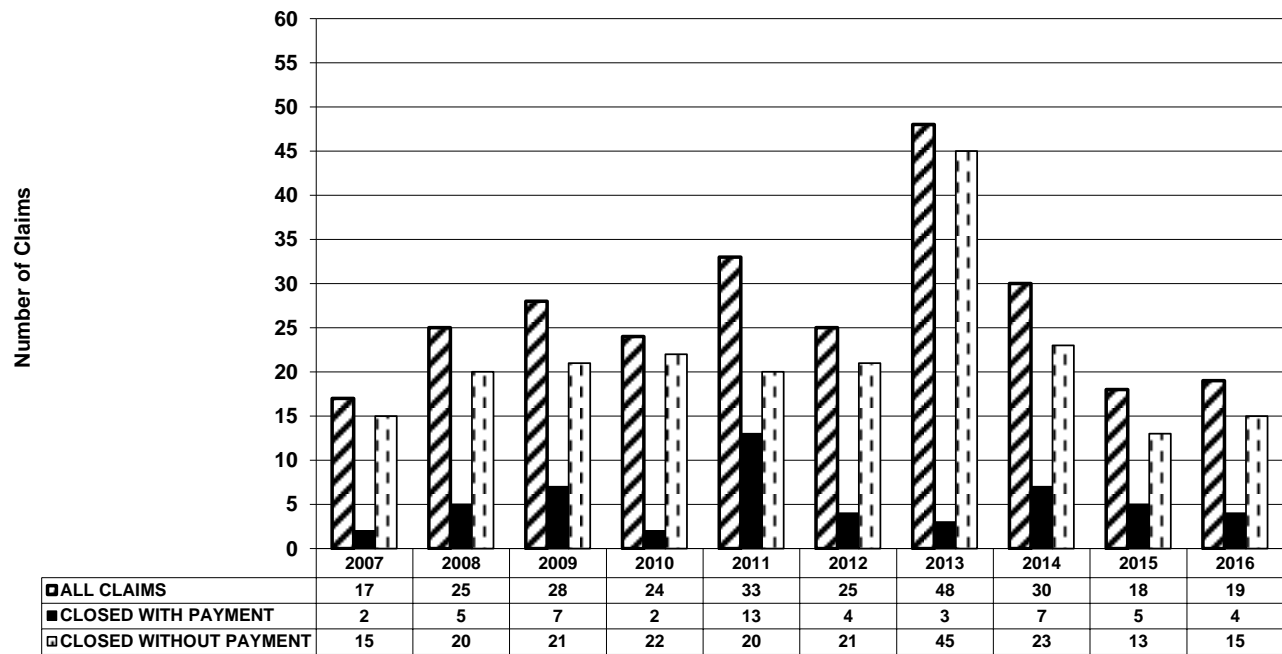


## REAL ESTATE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

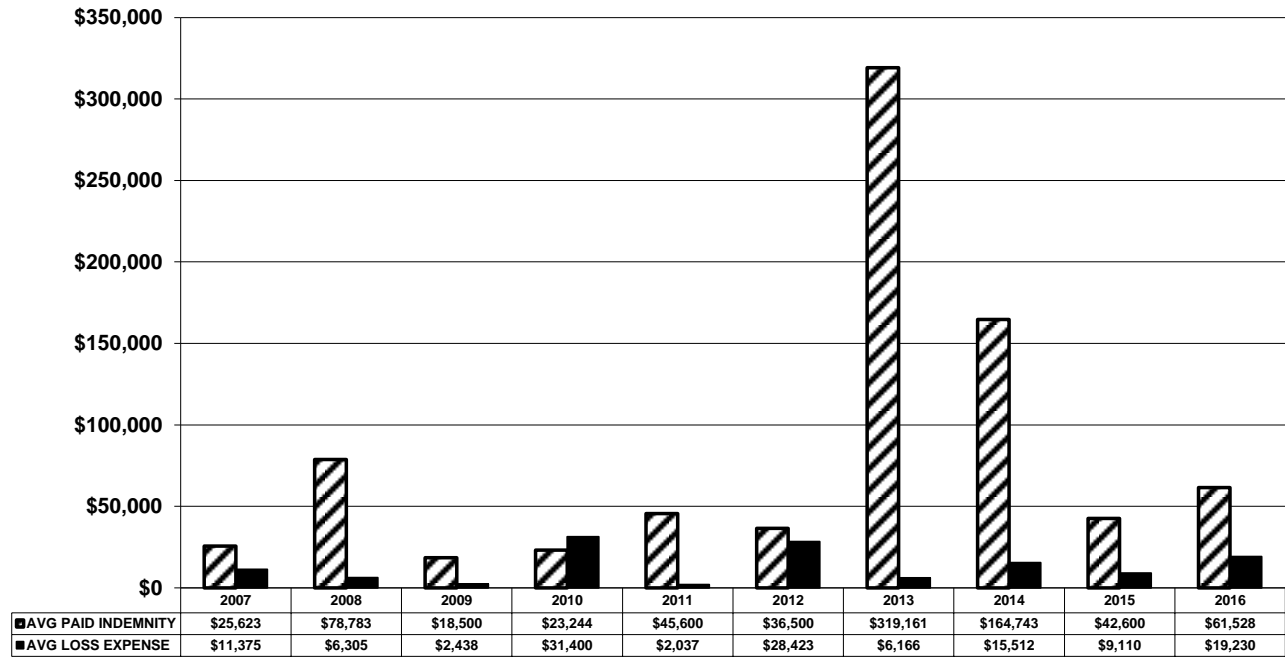


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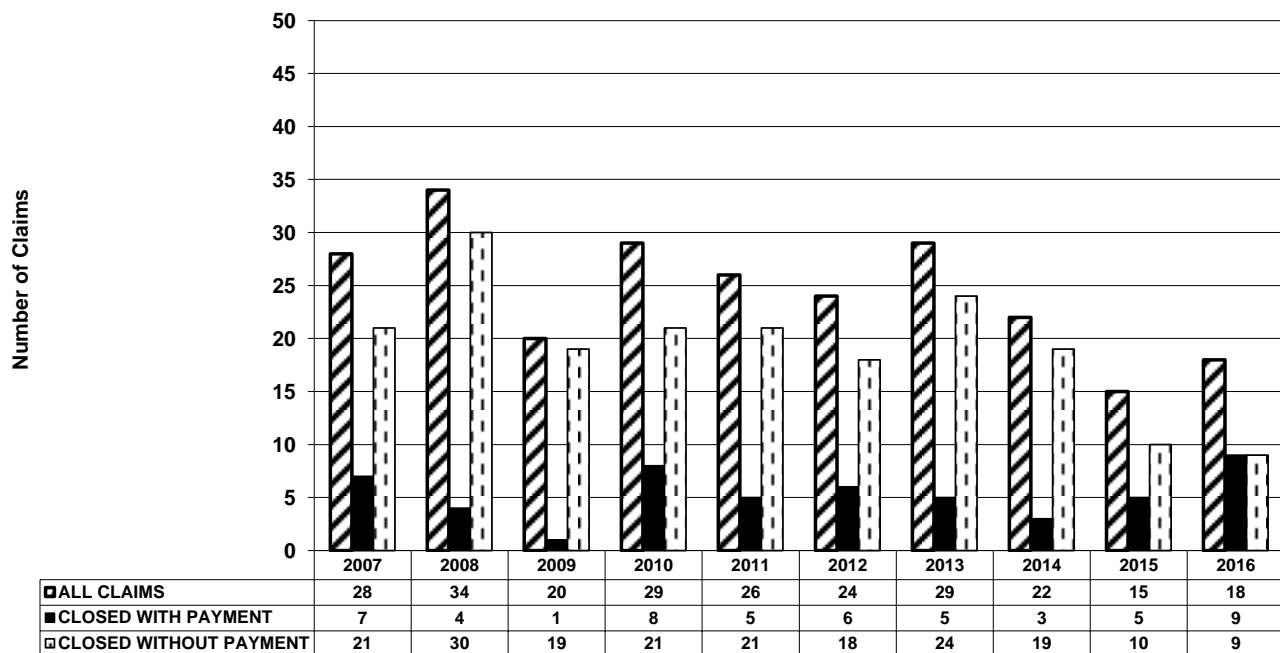


## FAMILY LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

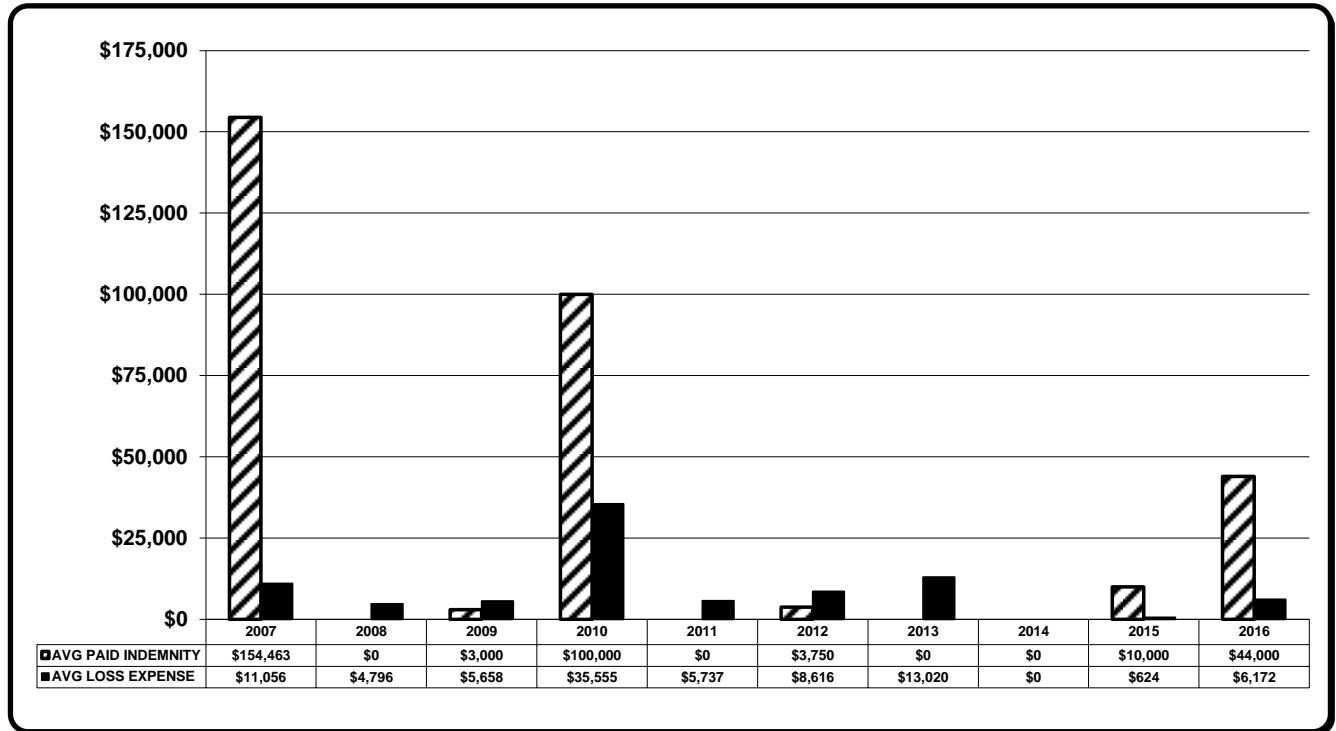


### CLAIM COUNT

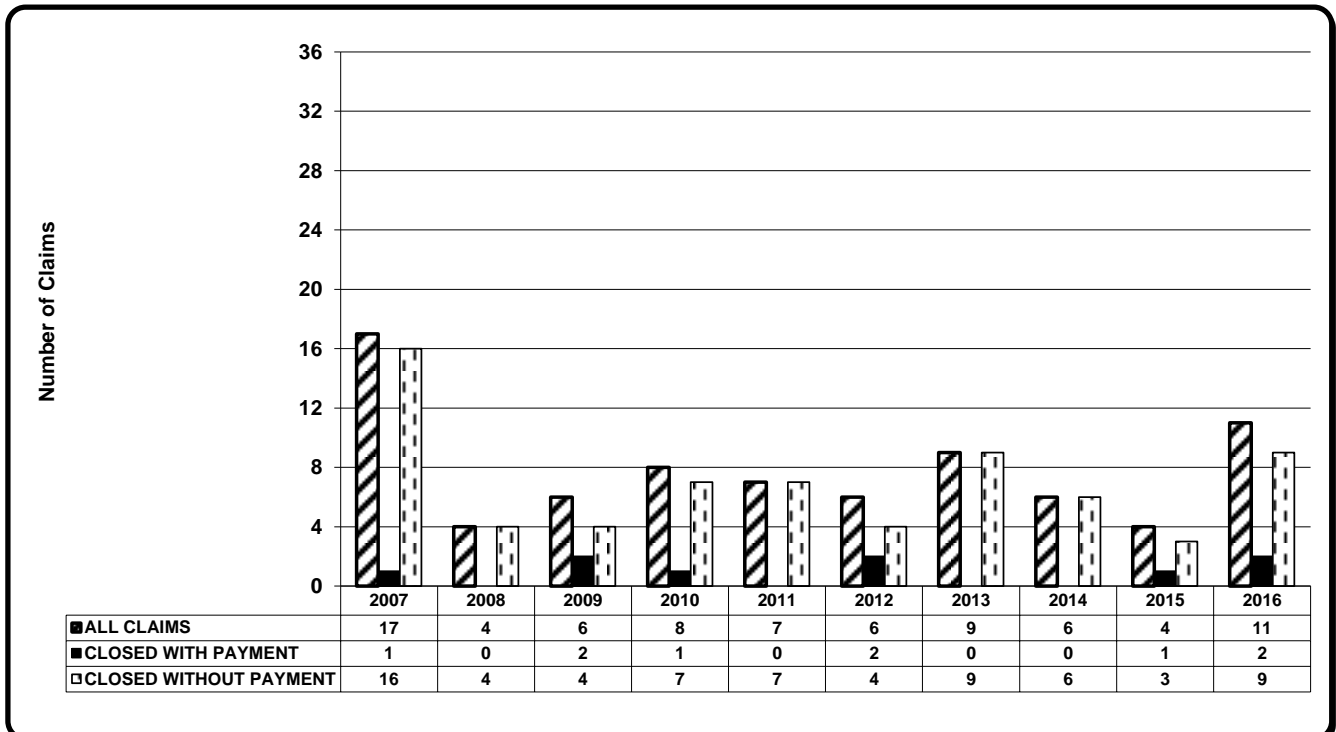


## CRIMINAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

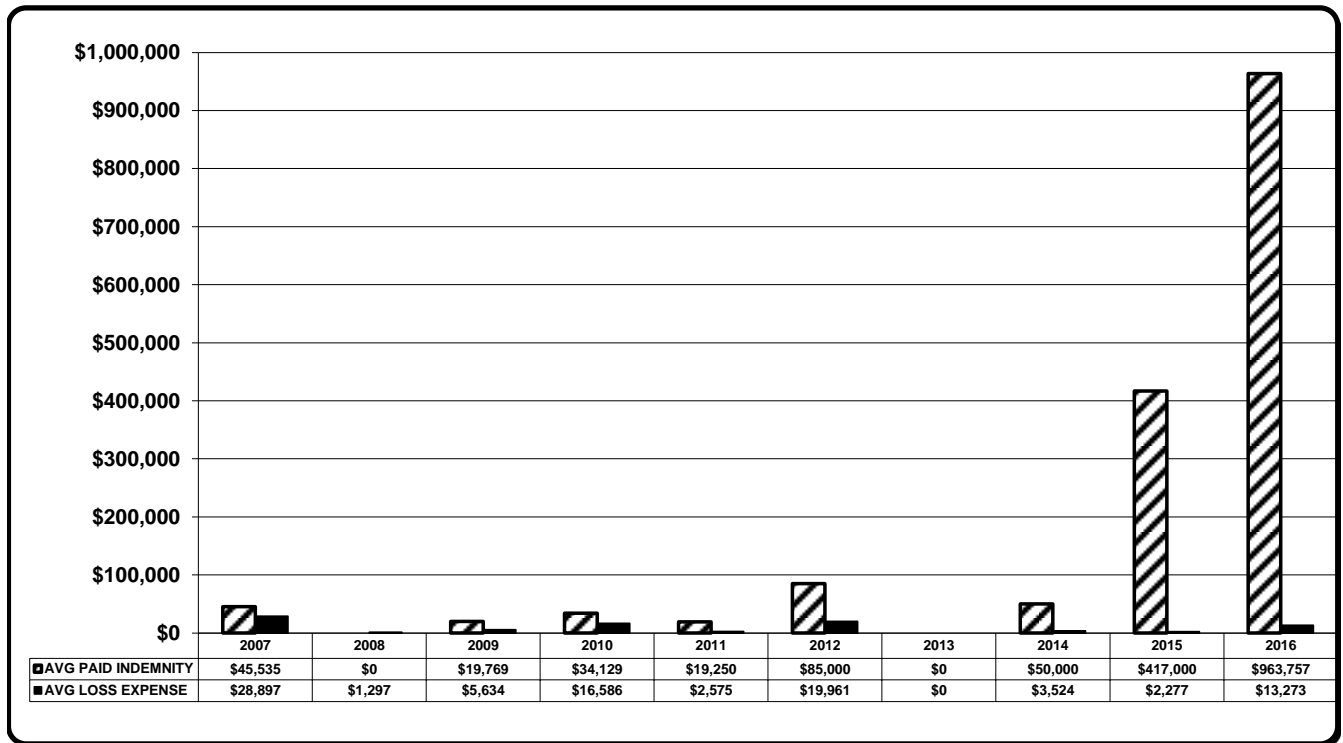


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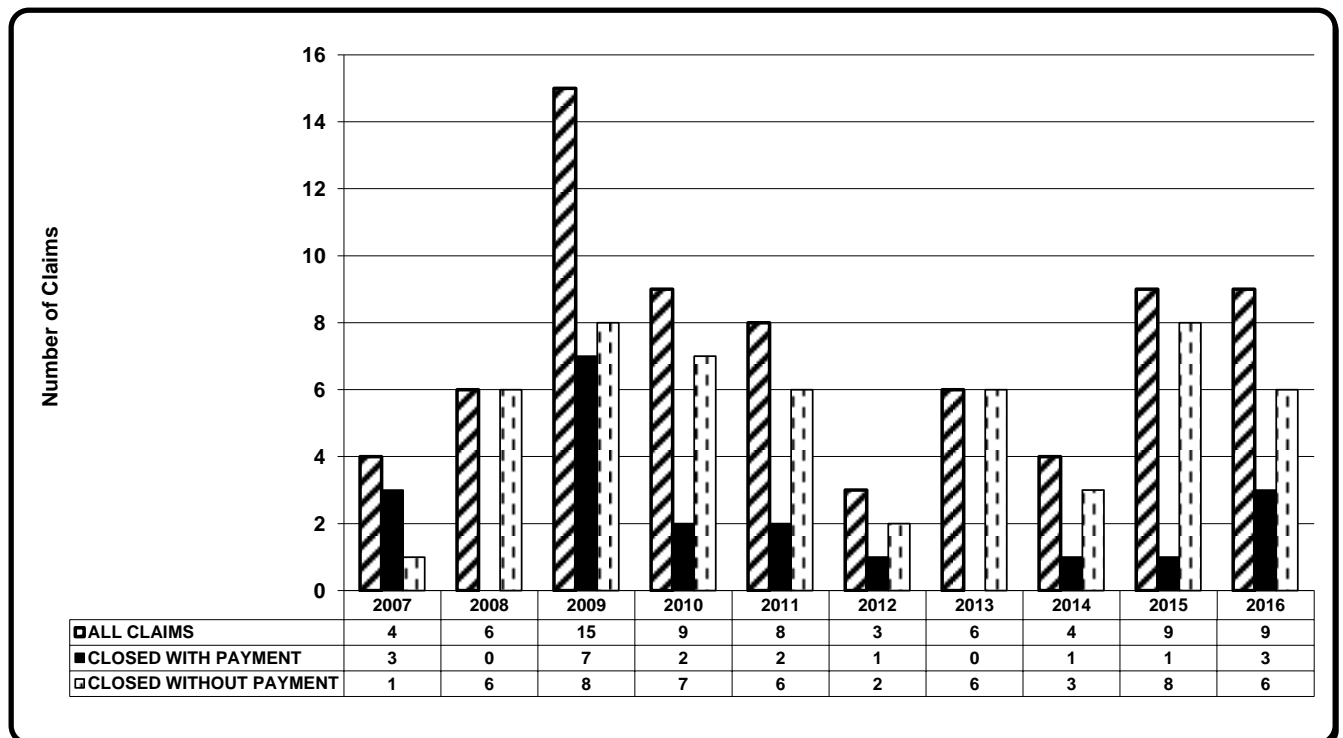


## WORKERS COMPENSATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

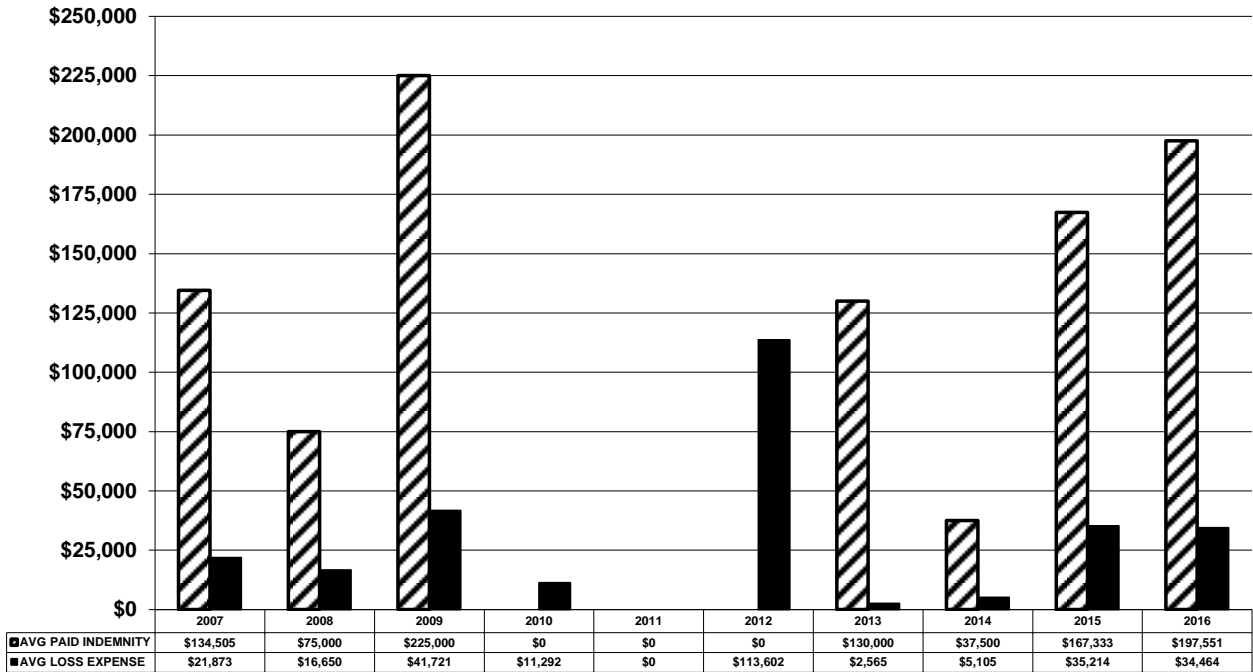


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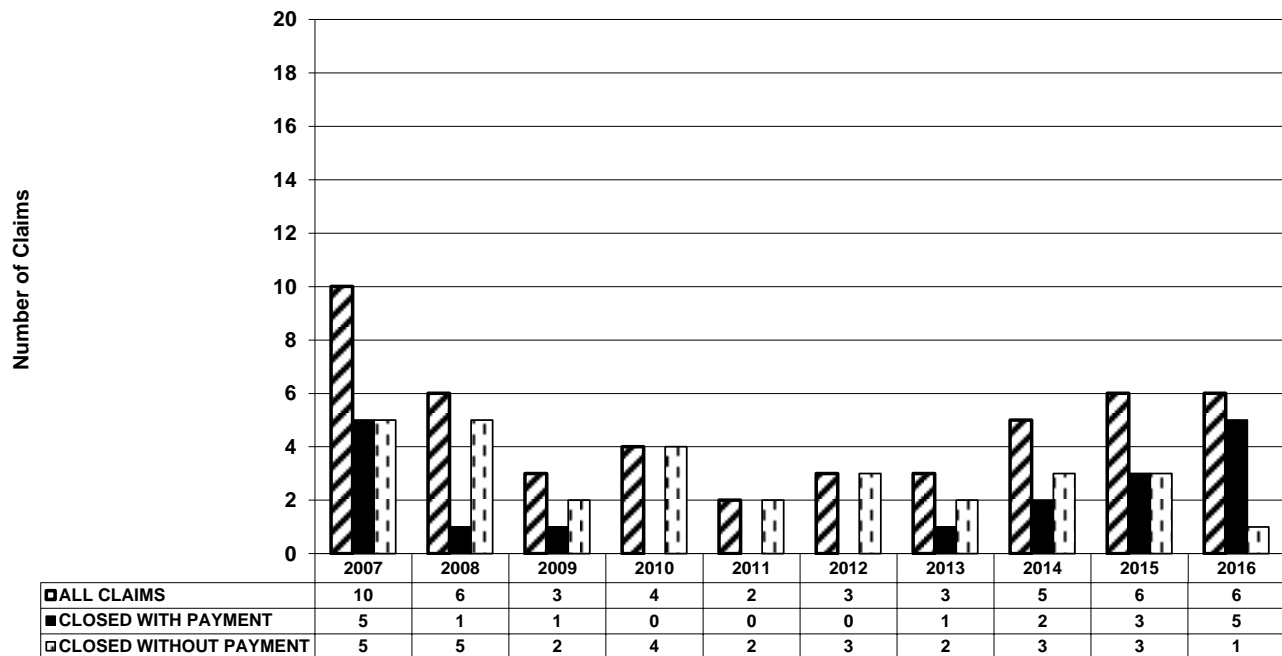


## LABOR LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



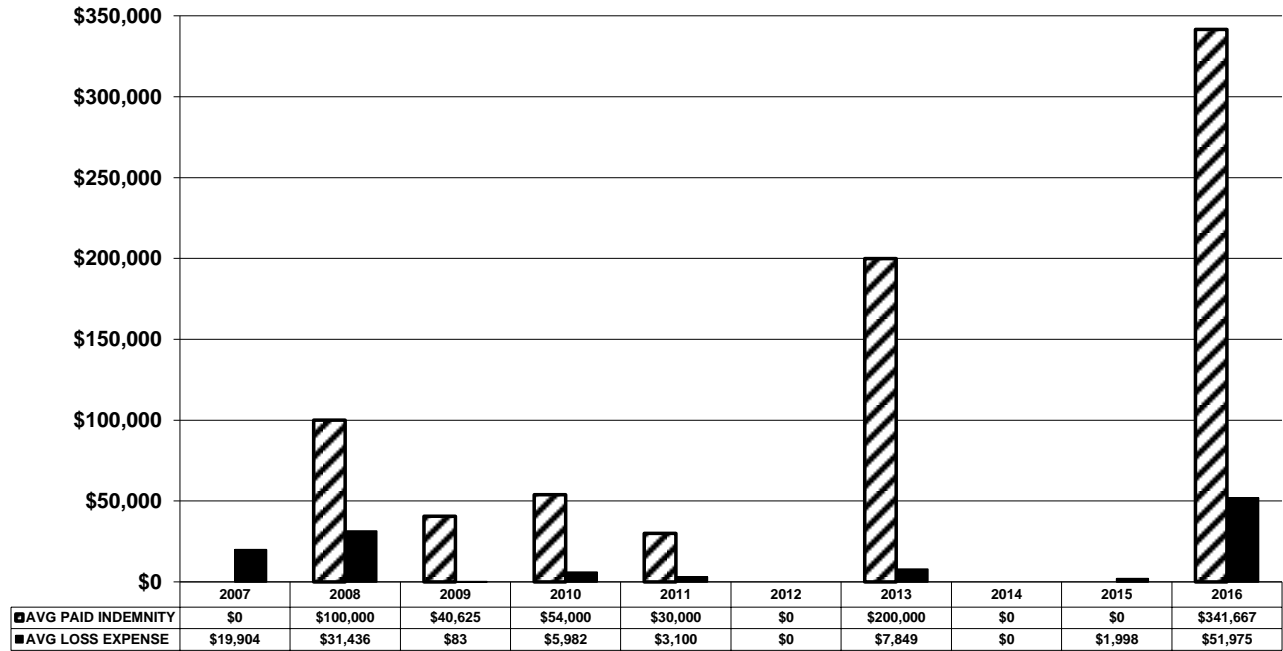
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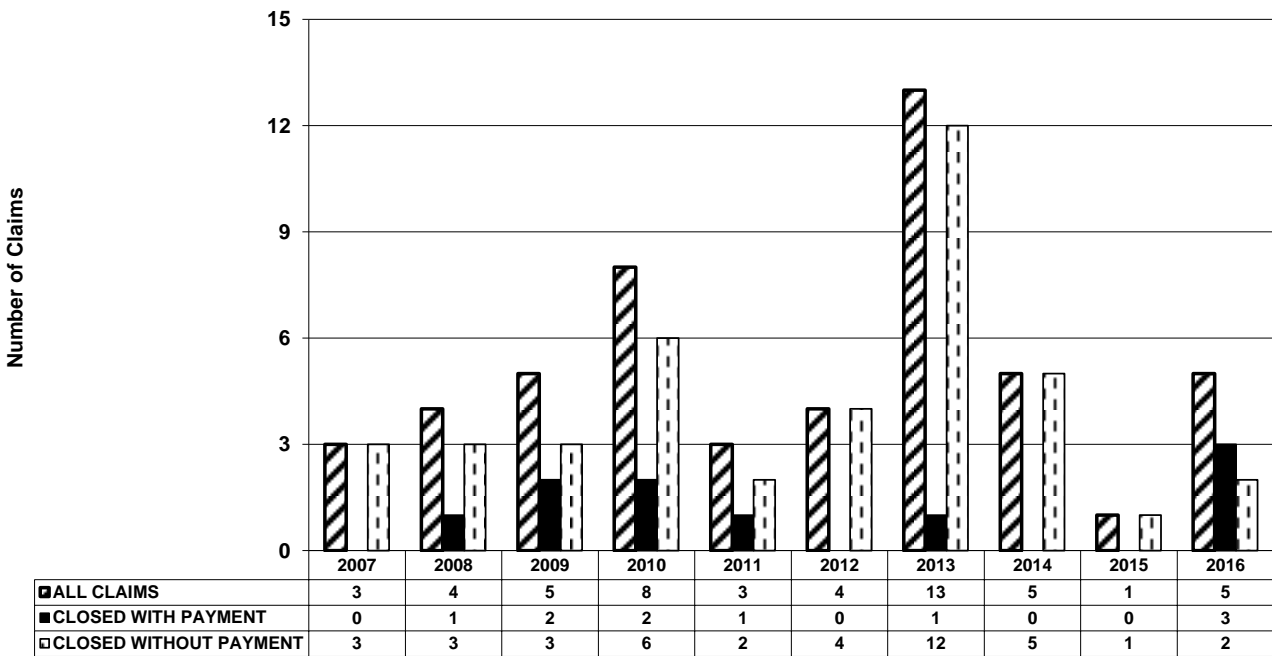


## CIVIL RIGHTS & COMMISSION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

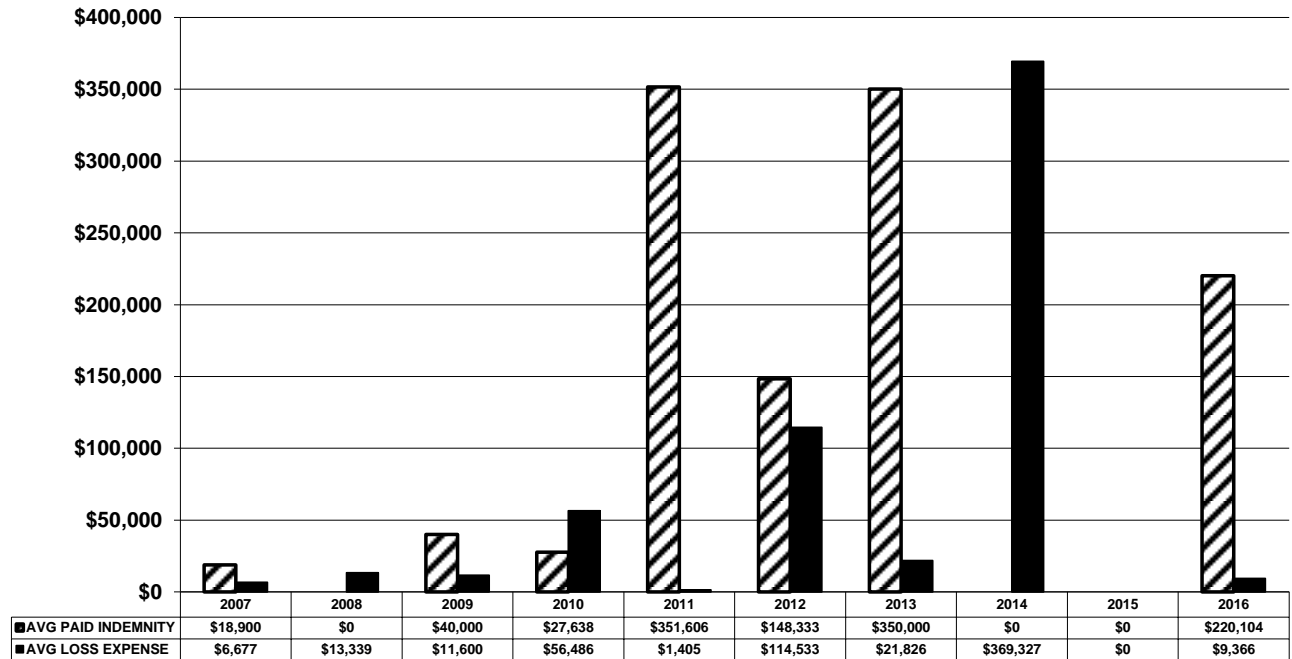


### CLAIM COUNT

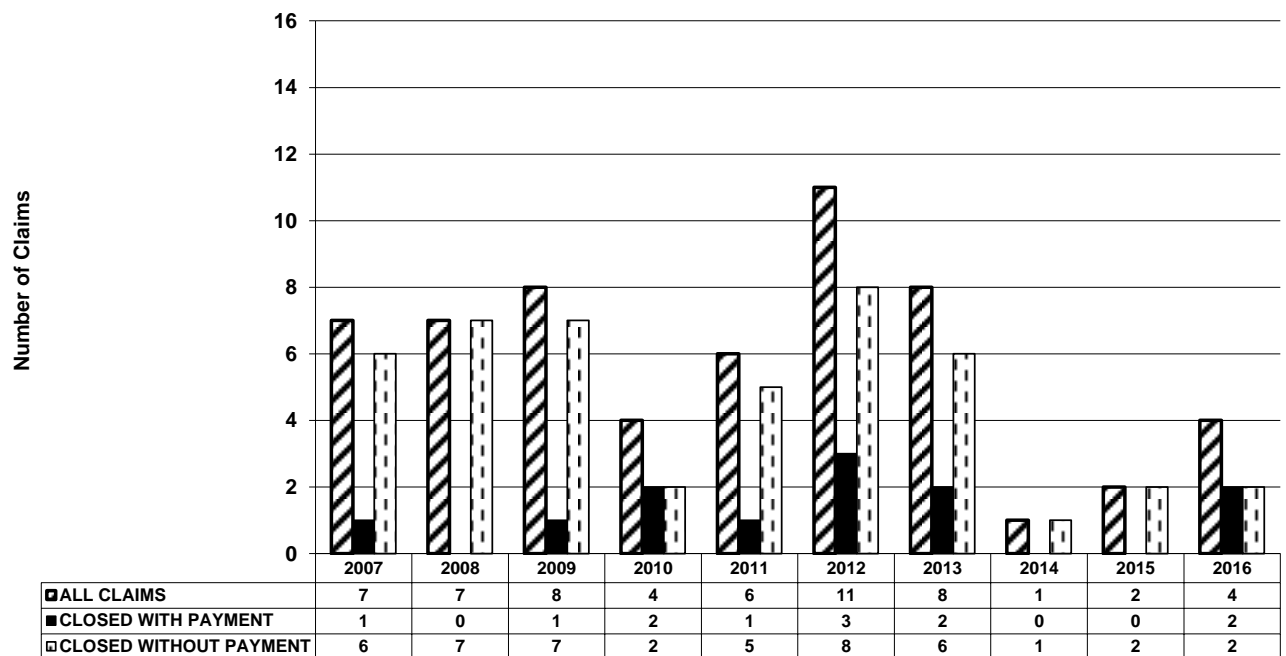


## BI/PD - DEFENDANT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
MAJOR ACTIVITY**



# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016

MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
COMMENCEMENT OF ACTION OR PROCEEDING	696	155	28.86%	\$99,549	\$15,430,111	22.79%	\$16,050
OTHER	590	112	20.86%	\$91,181	\$10,212,302	15.09%	\$11,435
PREPARATION, TRANSMITTAL OR FILING	208	72	13.41%	\$89,913	\$6,473,759	9.56%	\$21,375
PRE-TRIAL, PRE-HEARING	201	60	11.17%	\$131,931	\$7,915,888	11.69%	\$32,613
SETTLEMENT AND NEGOTIATION	123	38	7.08%	\$176,386	\$6,702,671	9.90%	\$26,829
CONSULTATION OR ADVICE	111	29	5.40%	\$246,156	\$7,138,516	10.55%	\$42,004
TRIAL OR HEARING	67	20	3.72%	\$345,506	\$6,910,123	10.21%	\$37,259
INVESTIGATION, OTHER THAN LITIGATION	56	16	2.98%	\$49,134	\$786,139	1.16%	\$21,911
POST TRIAL OR HEARING	53	11	2.05%	\$260,998	\$2,870,975	4.24%	\$15,574
APPEAL ACTIVITIES	40	4	0.74%	\$41,776	\$167,102	0.25%	\$19,834
OTHER WRITTEN OPINION	33	7	1.30%	\$209,122	\$1,463,853	2.16%	\$27,320
TAX REPORTING OR PAYMENT	14	5	0.93%	\$100,549	\$502,747	0.74%	\$26,933
EX PARTE PROCEEDINGS	12	3	0.56%	\$81,756	\$245,267	0.36%	\$19,700
REFERRAL TO ANOTHER PROFESSIONAL	9	3	0.56%	\$107,667	\$323,000	0.48%	\$11,914
TITLE OPINION	3	2	0.37%	\$275,000	\$550,000	0.81%	\$26,310
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2016

MAJOR ACTIVITY CODE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
COMMENCEMENT OF ACTION OR PROCEEDING	73	18	29.03%	\$129,756	\$2,335,607	0	\$12,830
PREPARATION, TRANSMITTAL OR FILING	35	13	20.97%	\$60,777	\$790,096	8.79%	\$8,795
OTHER	28	10	16.13%	\$48,100	\$481,000	5.35%	\$9,110
CONSULTATION OR ADVICE	12	5	8.06%	\$136,000	\$680,000	7.56%	\$13,915
SETTLEMENT AND NEGOTIATION	11	7	11.29%	\$119,143	\$834,004	9.27%	\$23,152
PRE-TRIAL, PRE-HEARING	10	3	4.84%	\$338,496	\$1,015,489	11.29%	\$23,589
APPEAL ACTIVITIES	3	0	0.00%	N/A	\$0	0.00%	\$0
INVESTIGATION, OTHER THAN LITIGATION	3	0	0.00%	N/A	\$0	0.00%	\$0
POST TRIAL OR HEARING	2	2	3.23%	\$1,047,500	\$2,095,000	23.30%	\$65,865
TAX REPORTING OR PAYMENT	2	1	1.61%	\$128,669	\$128,669	1.43%	\$3,774
OTHER WRITTEN OPINION	1	1	1.61%	\$125,000	\$125,000	1.39%	\$13,381
REFERRAL TO ANOTHER PROFESSIONAL	1	1	1.61%	\$33,000	\$33,000	0.37%	\$0
TITLE OPINION	1	1	1.61%	\$475,000	\$475,000	5.28%	\$78,931
TRIAL OR HEARING	1		0.00%	N/A	\$0	0.00%	\$24,036
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

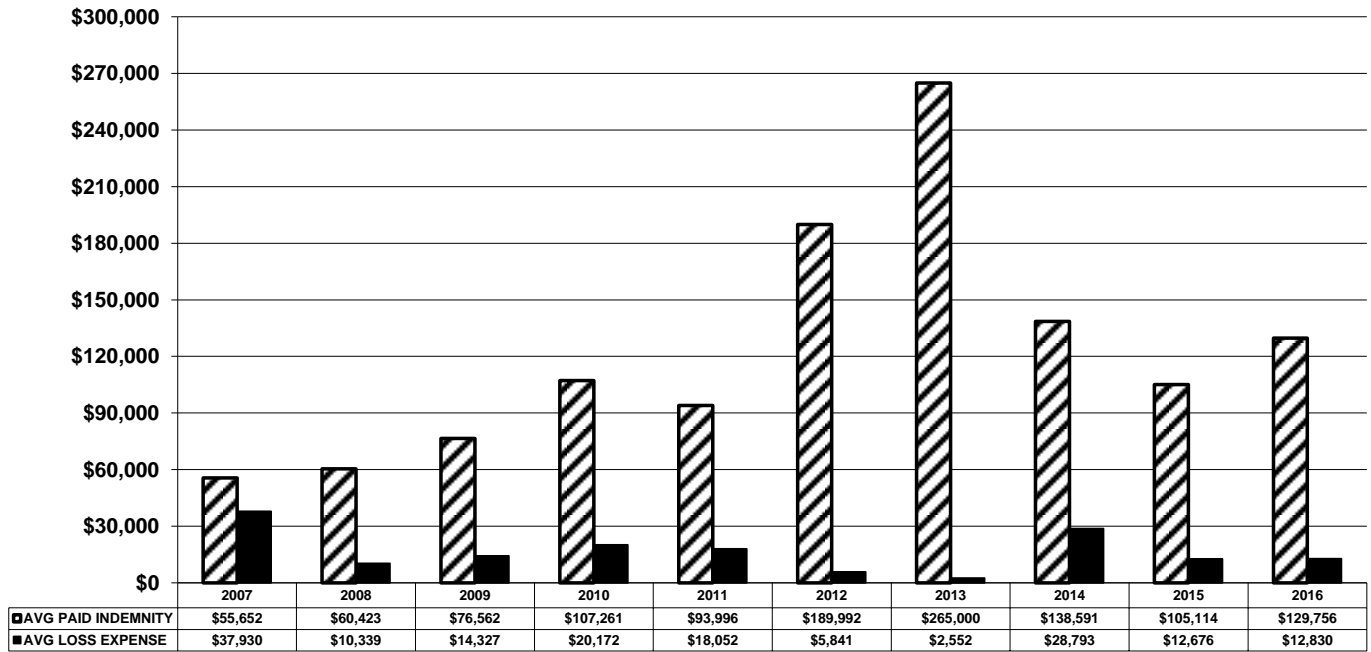
**TRENDS  
OF THE TOP TEN  
MAJOR ACTIVITY  
OF 2016**



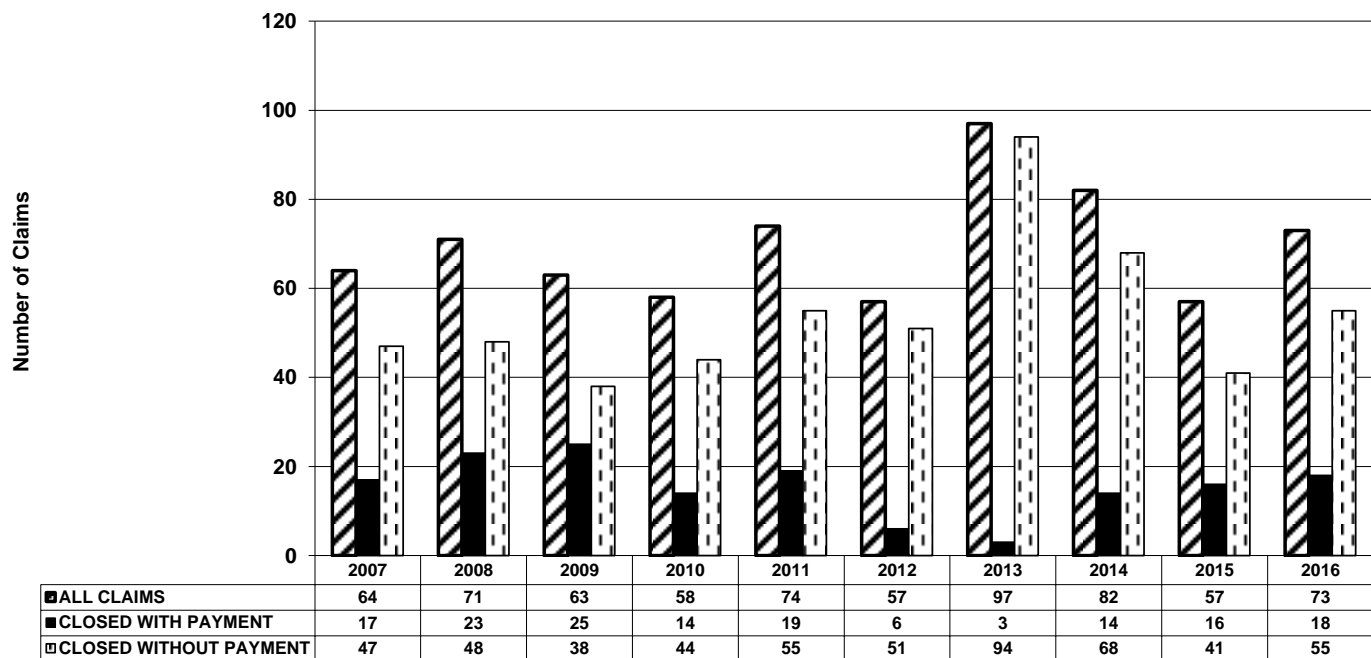


## COMMENCEMENT OF ACTION OR PROCEEDING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

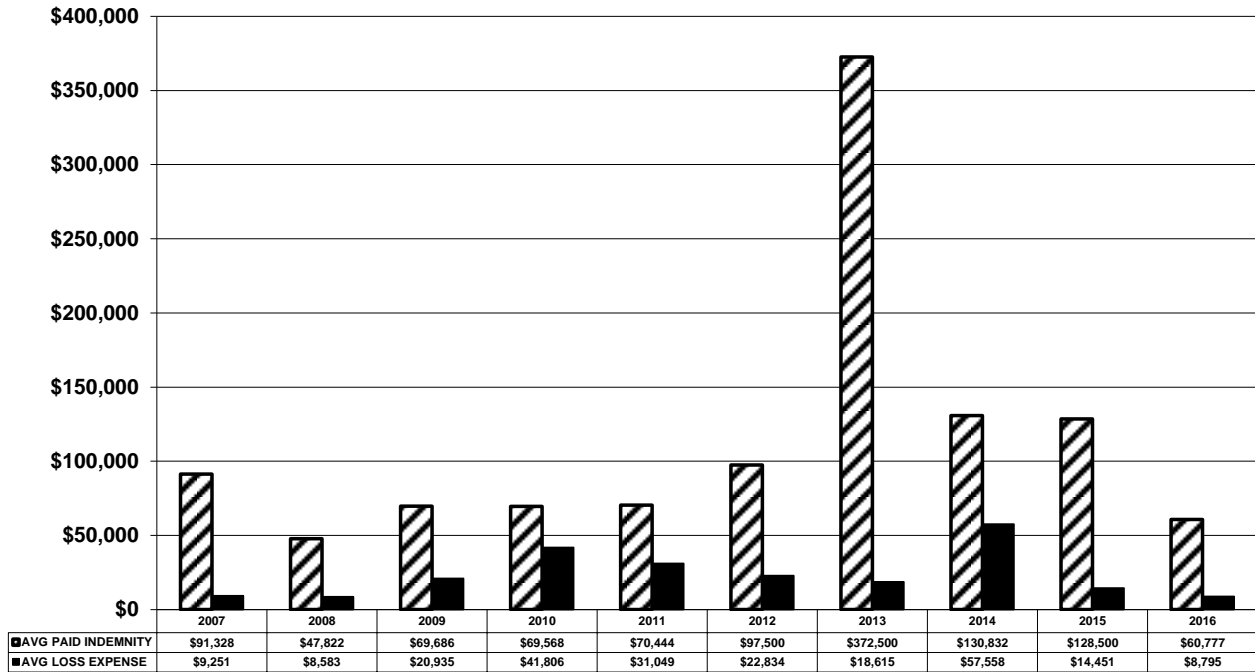


### CLAIM COUNT

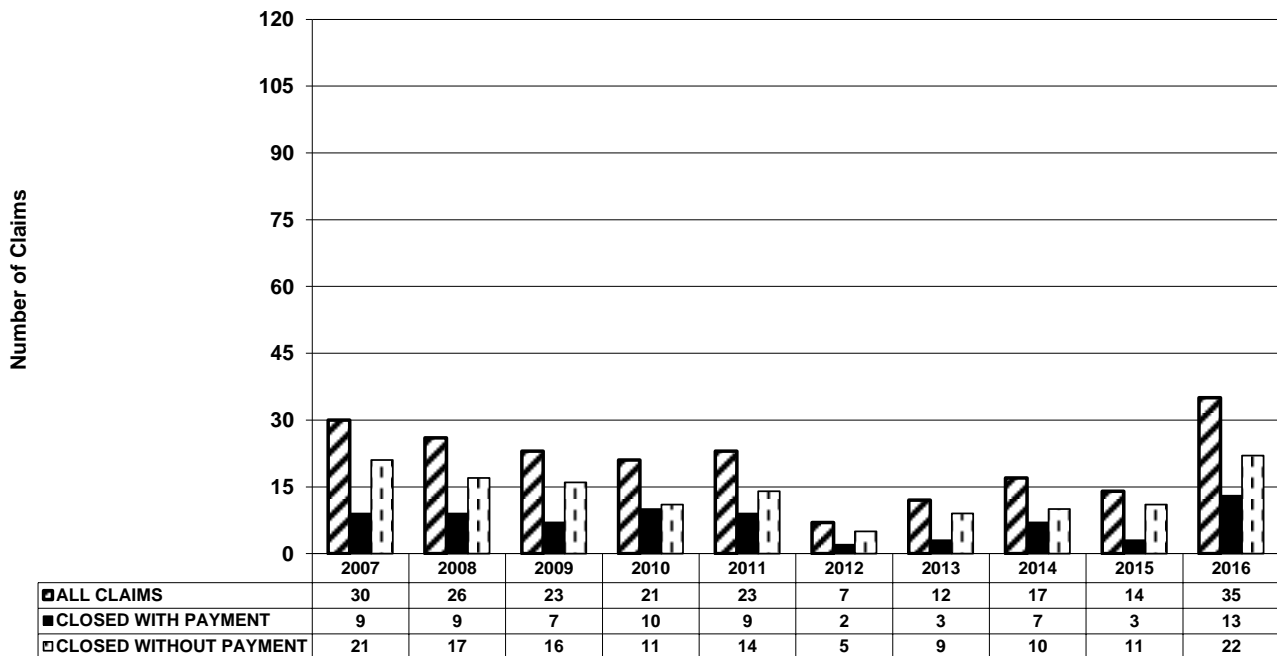


## PREPARATION, TRANSMITTAL OR FILING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

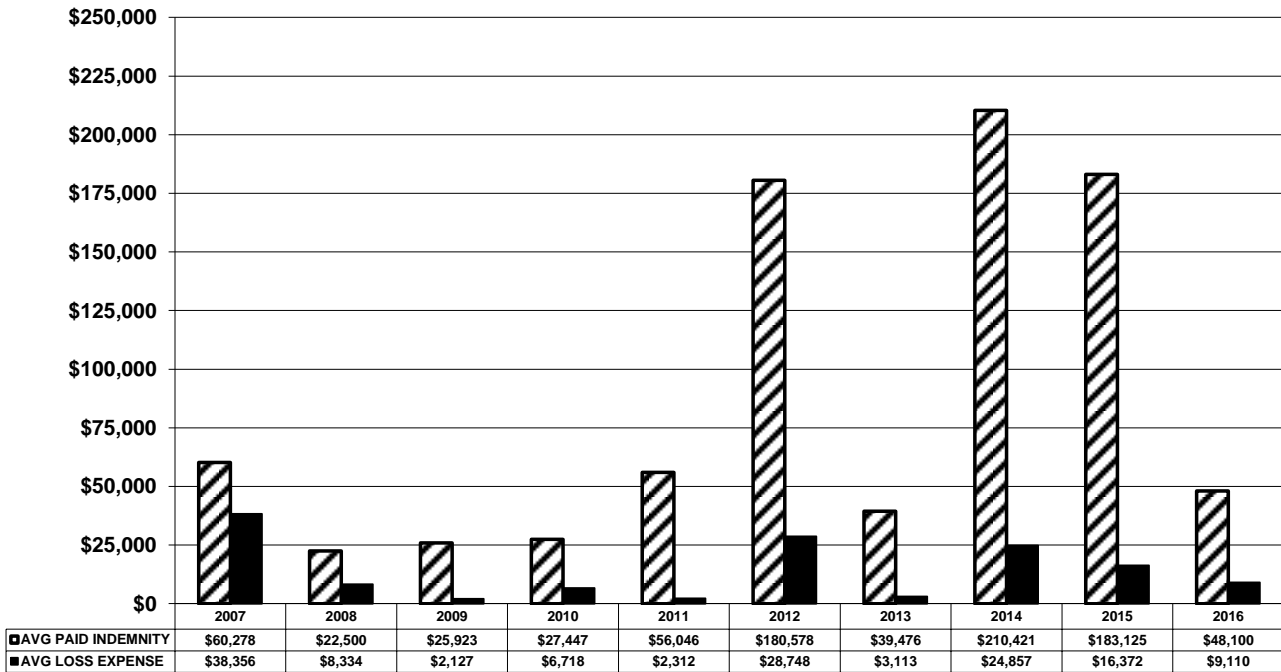


### CLAIM COUNT

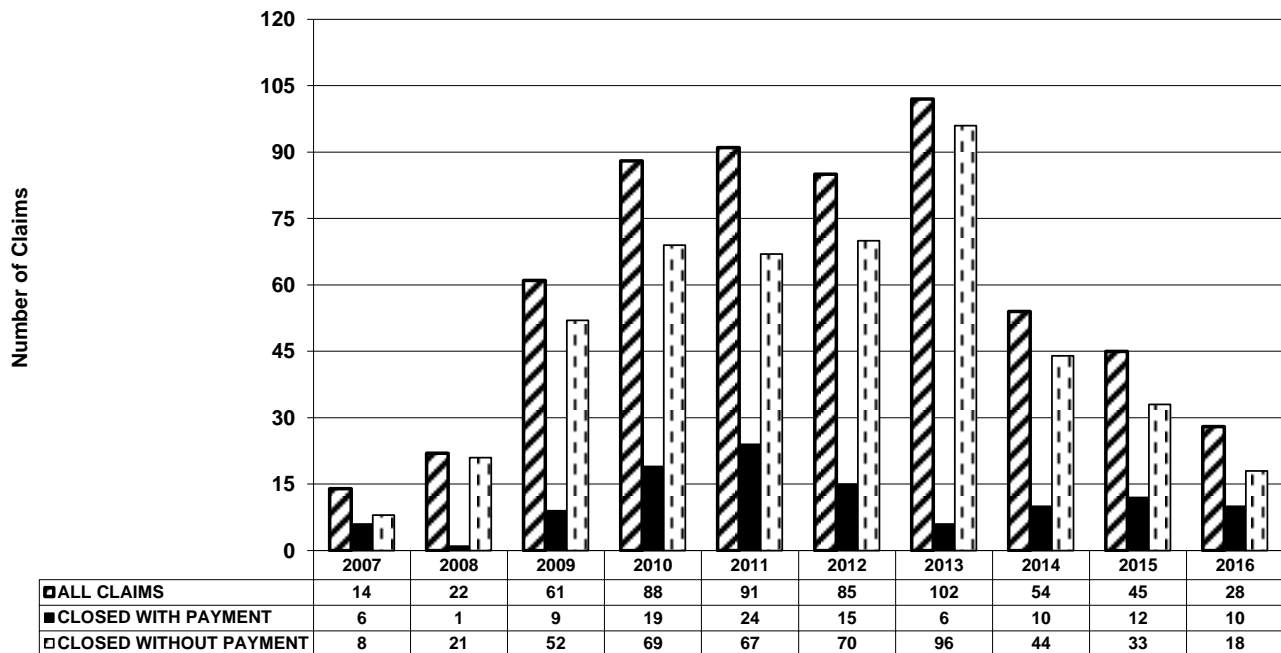


## OTHER

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

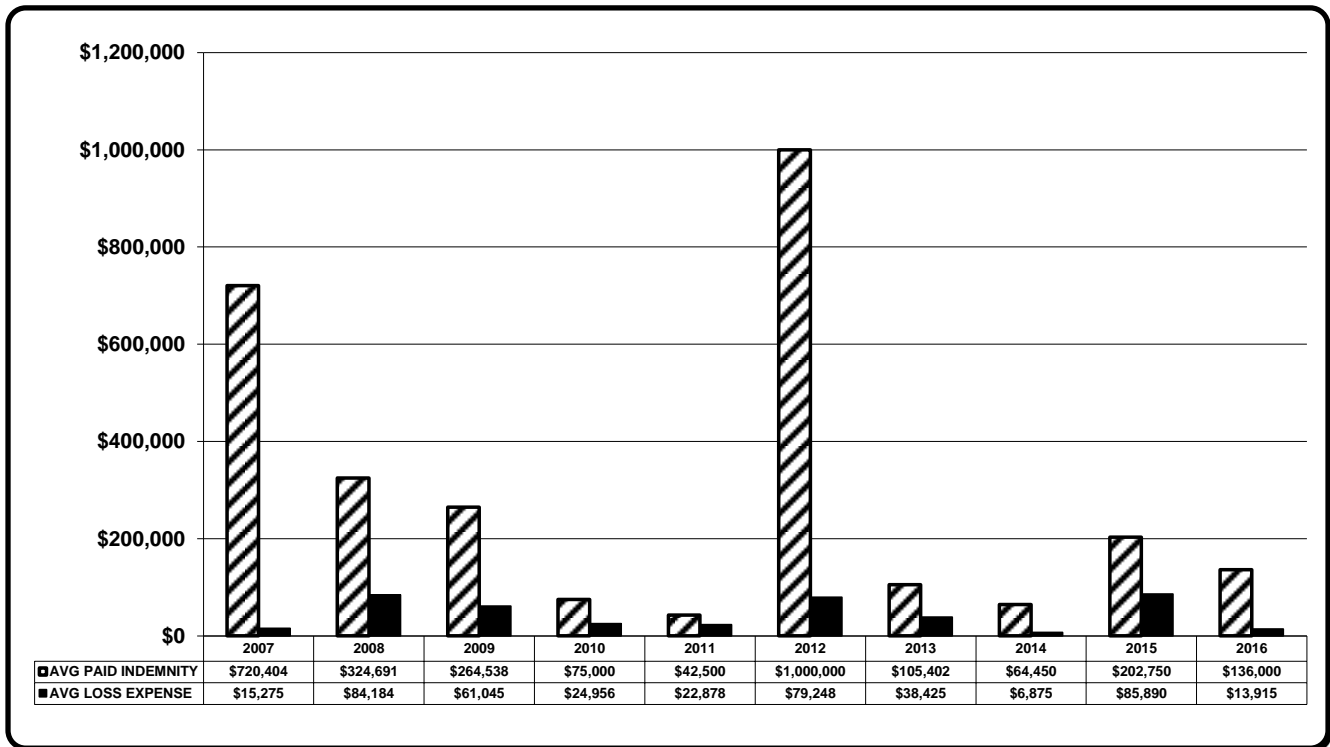


### CLAIM COUNT

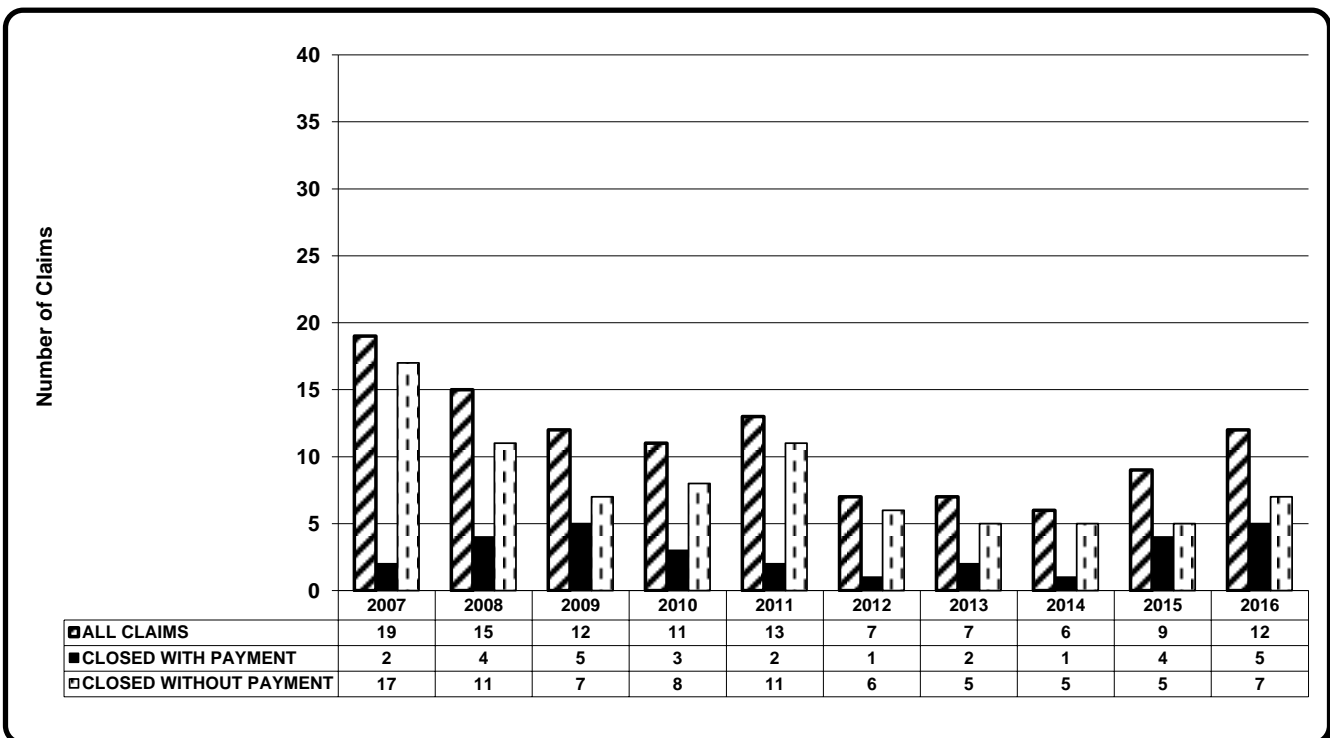


## CONSULTATION OR ADVICE

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

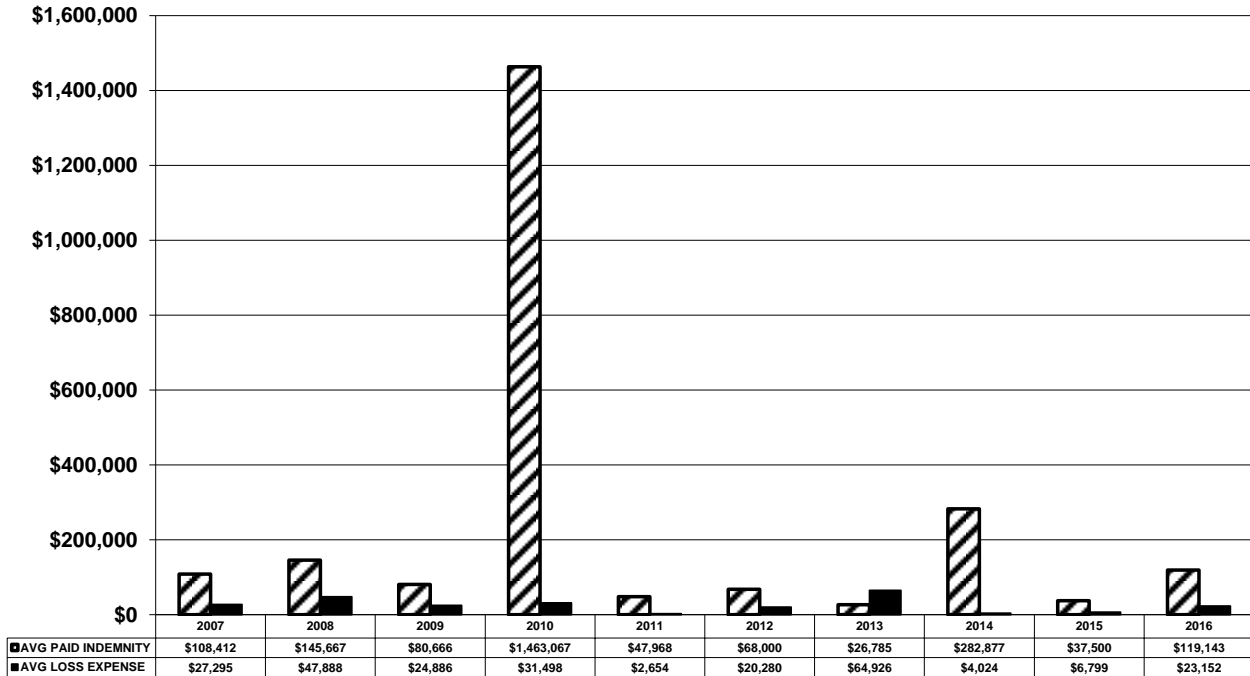


### CLAIM COUNT

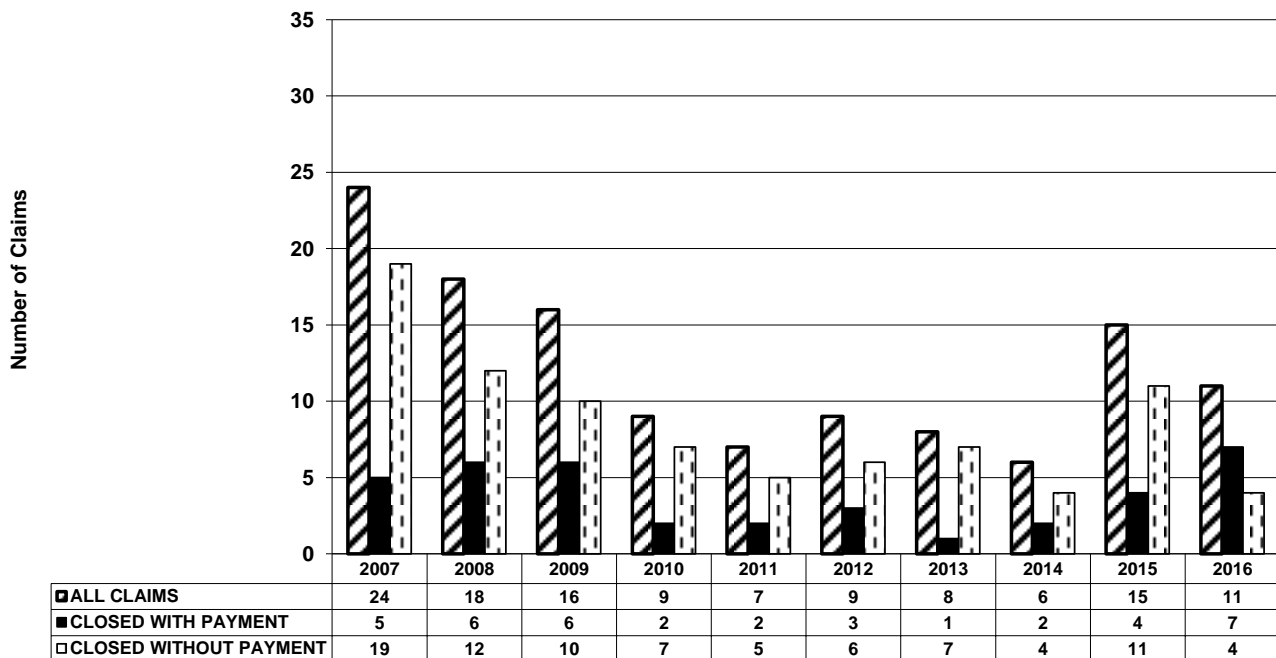


## SETTLEMENT & NEGOTIATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

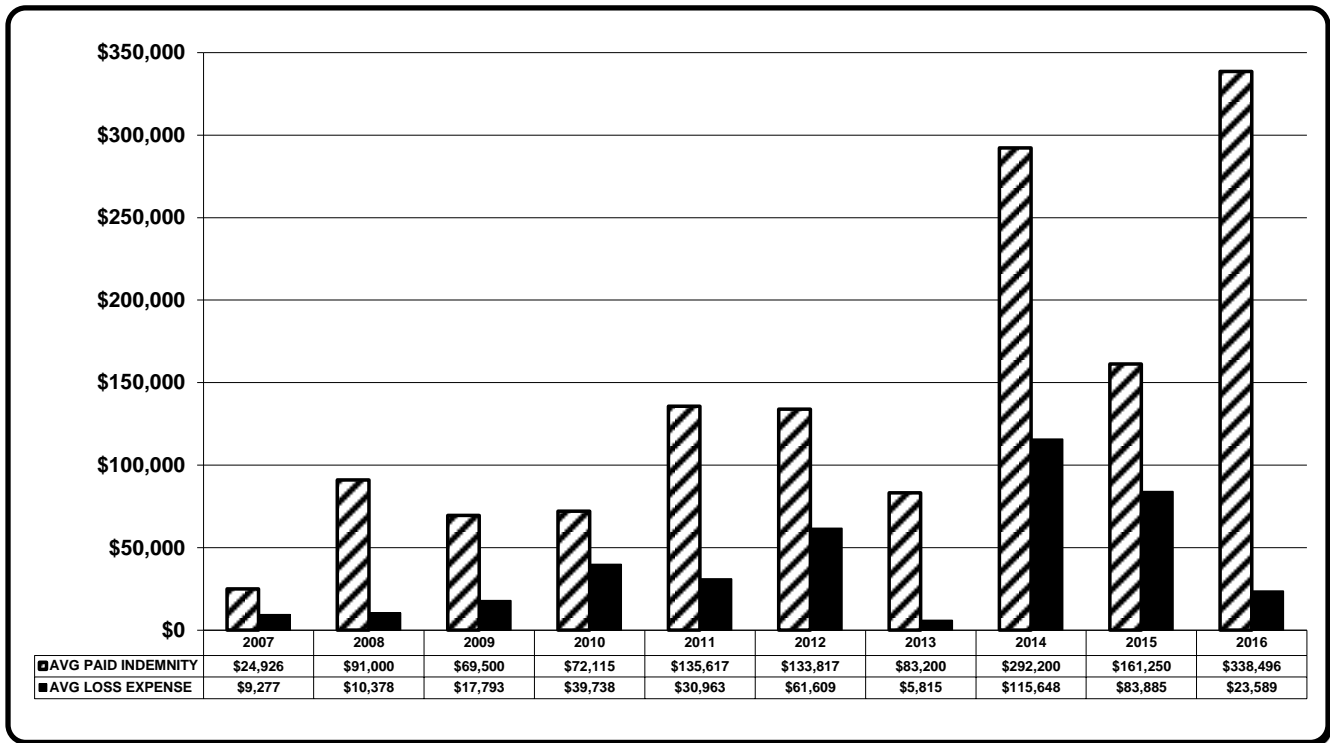


### CLAIM COUNT

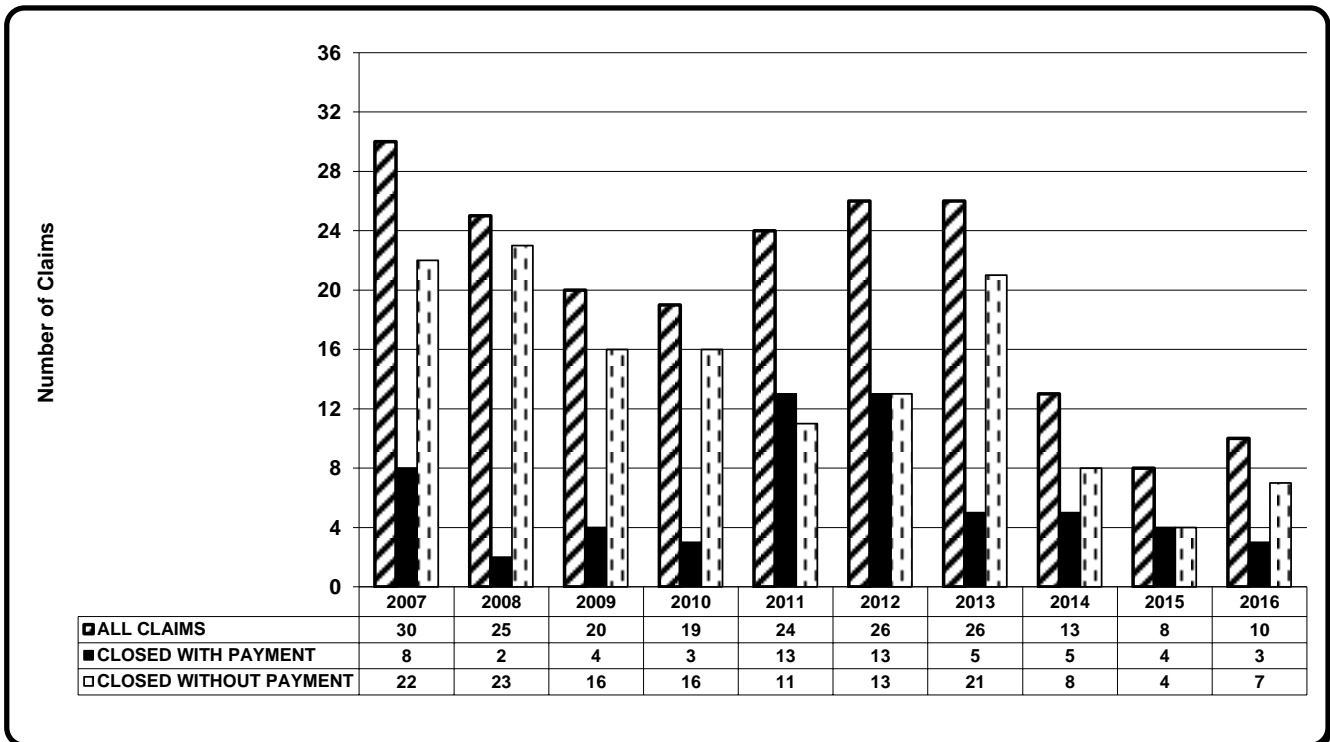


## PRE-TRIAL, PRE-HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

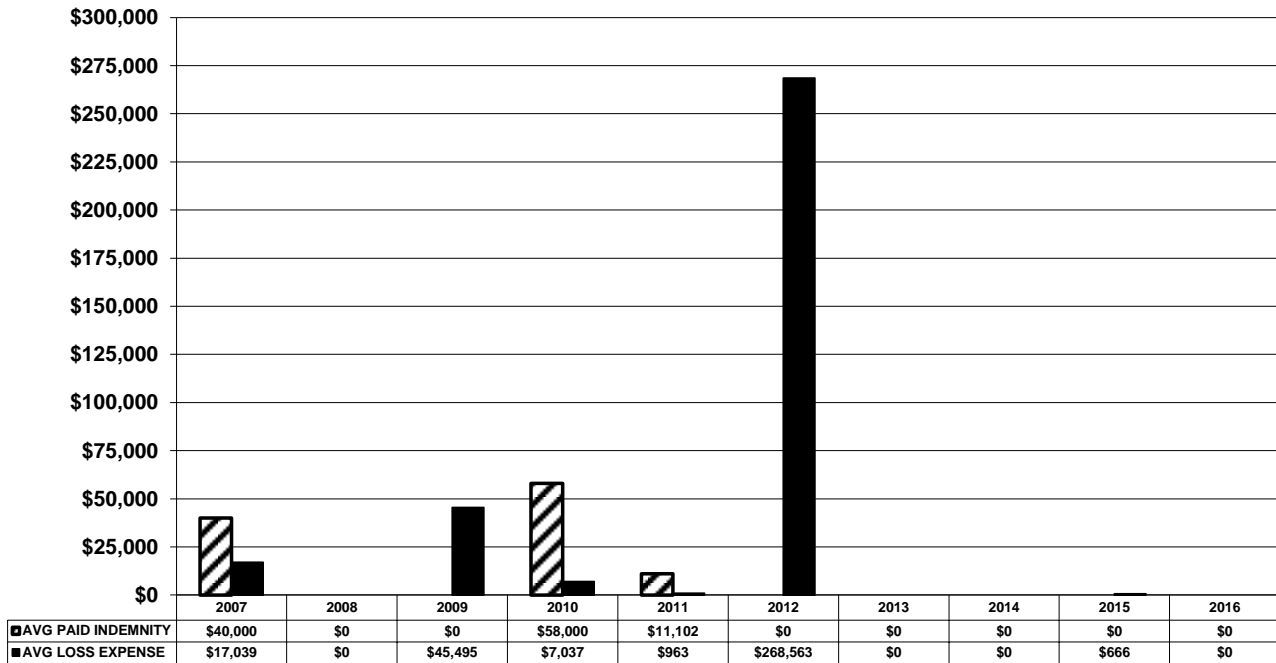


### CLAIM COUNT

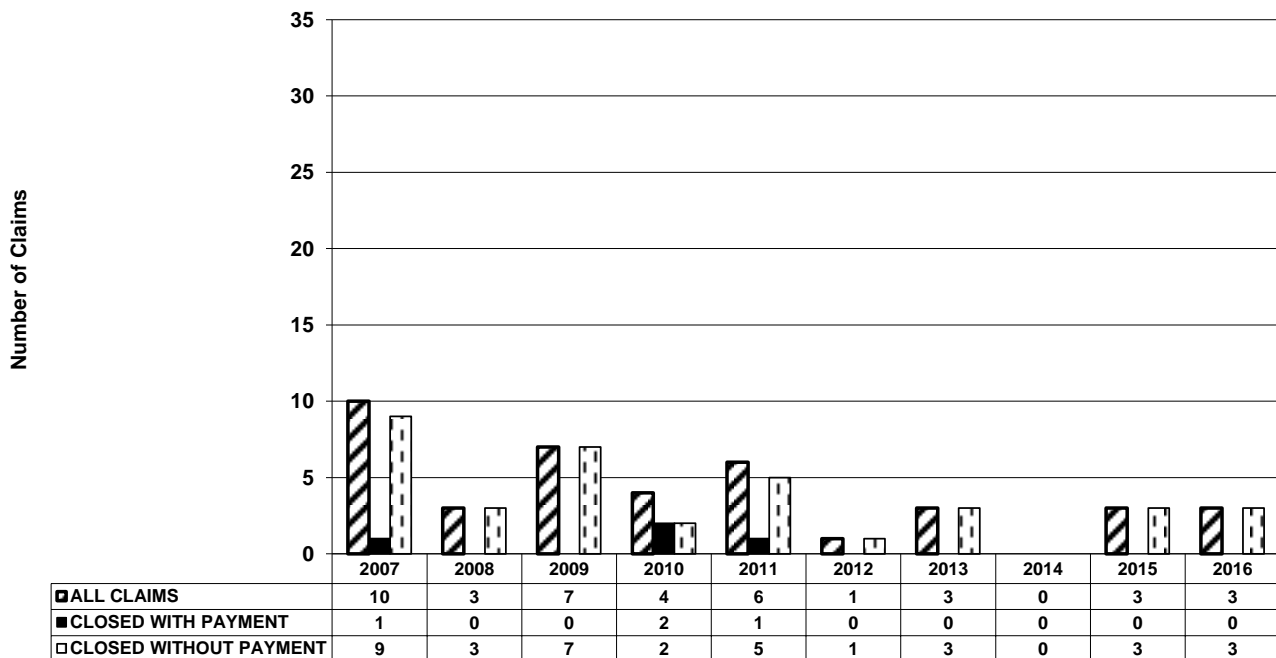


## APPEAL ACTIVITIES

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

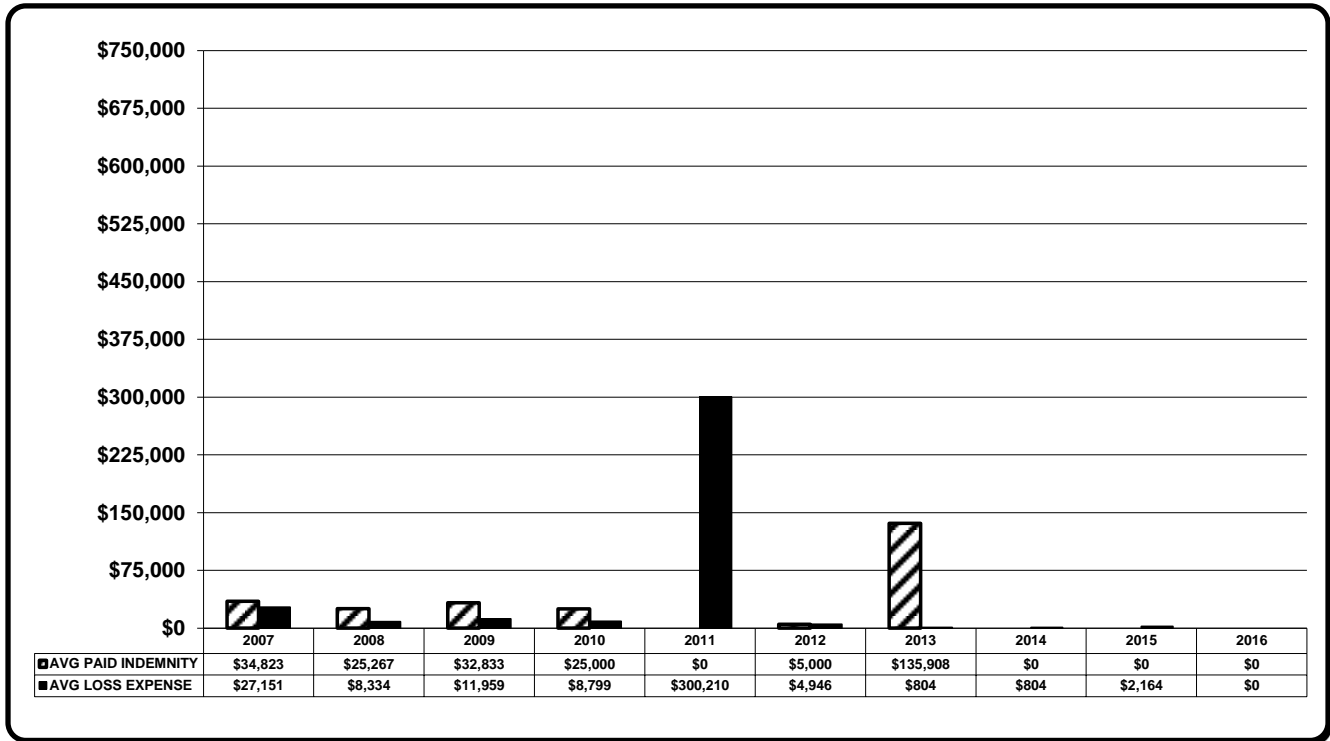


### CLAIM COUNT

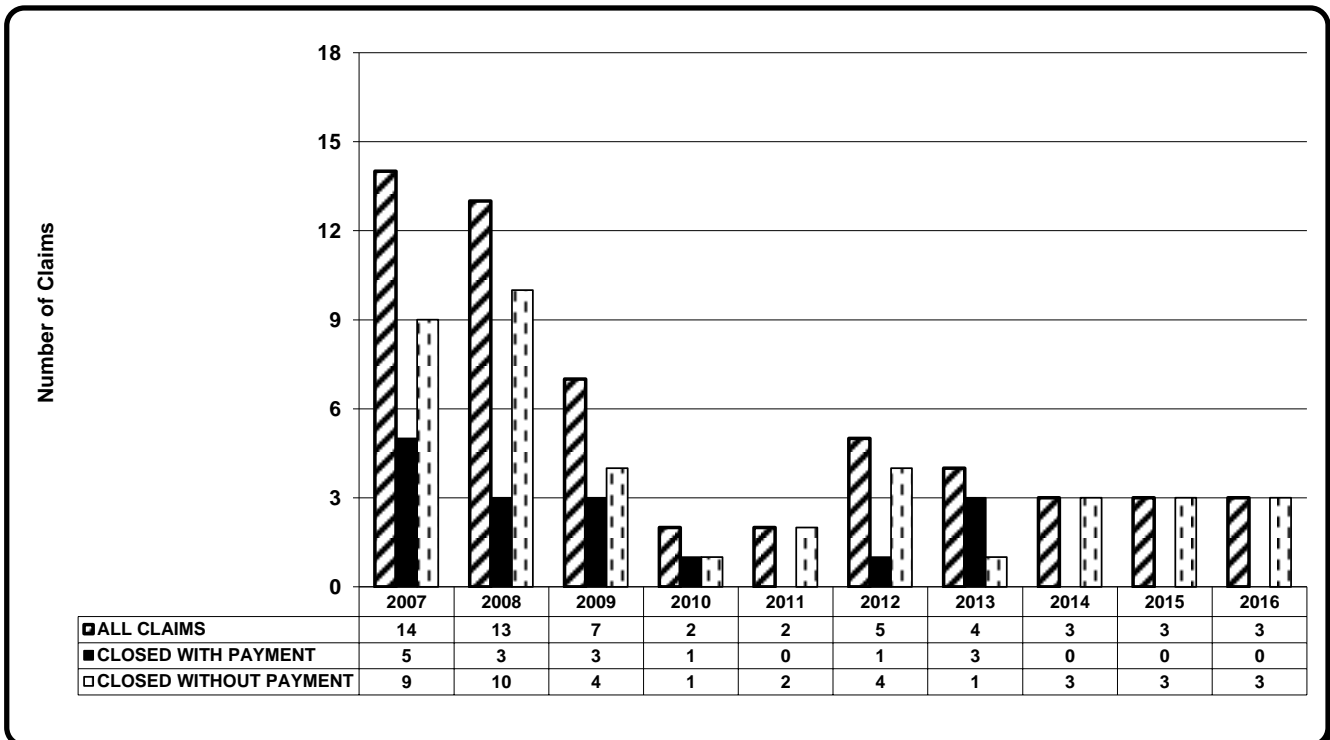


## INVESTIGATION, OTHER THAN LITIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



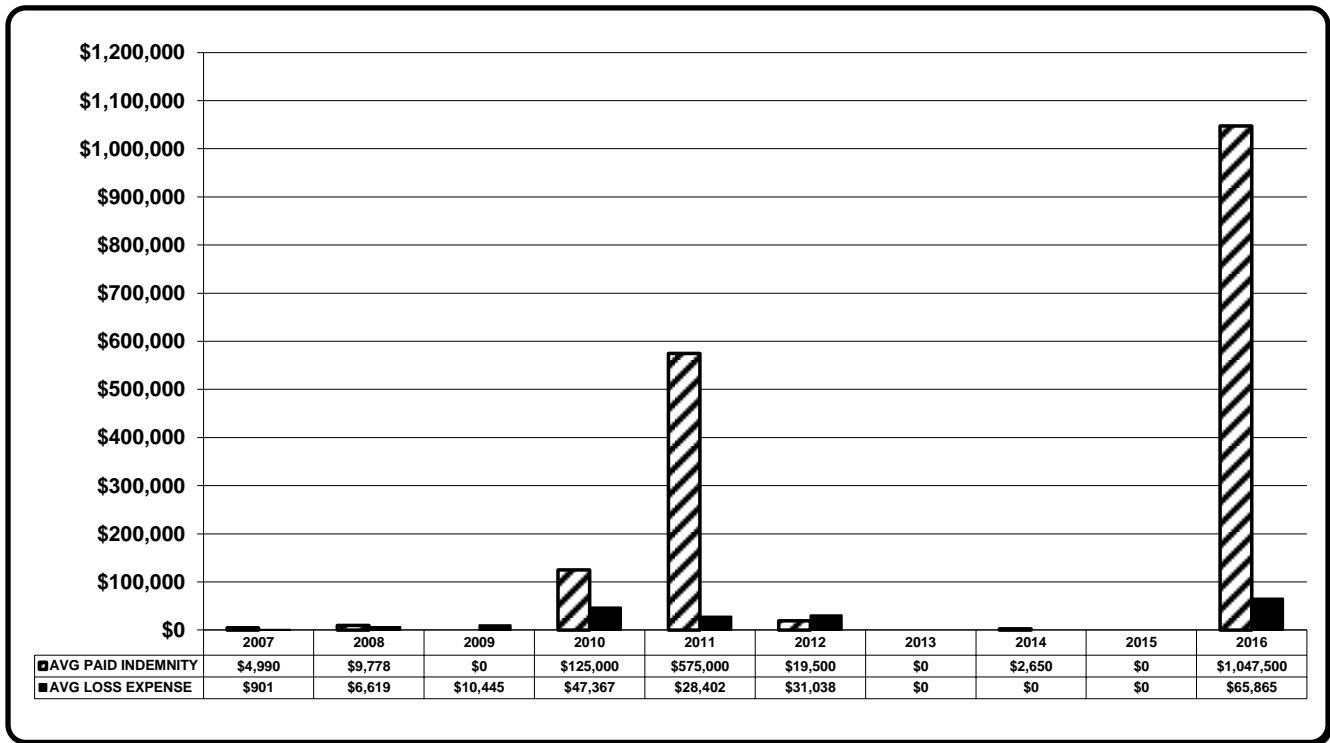
### CLAIM COUNT



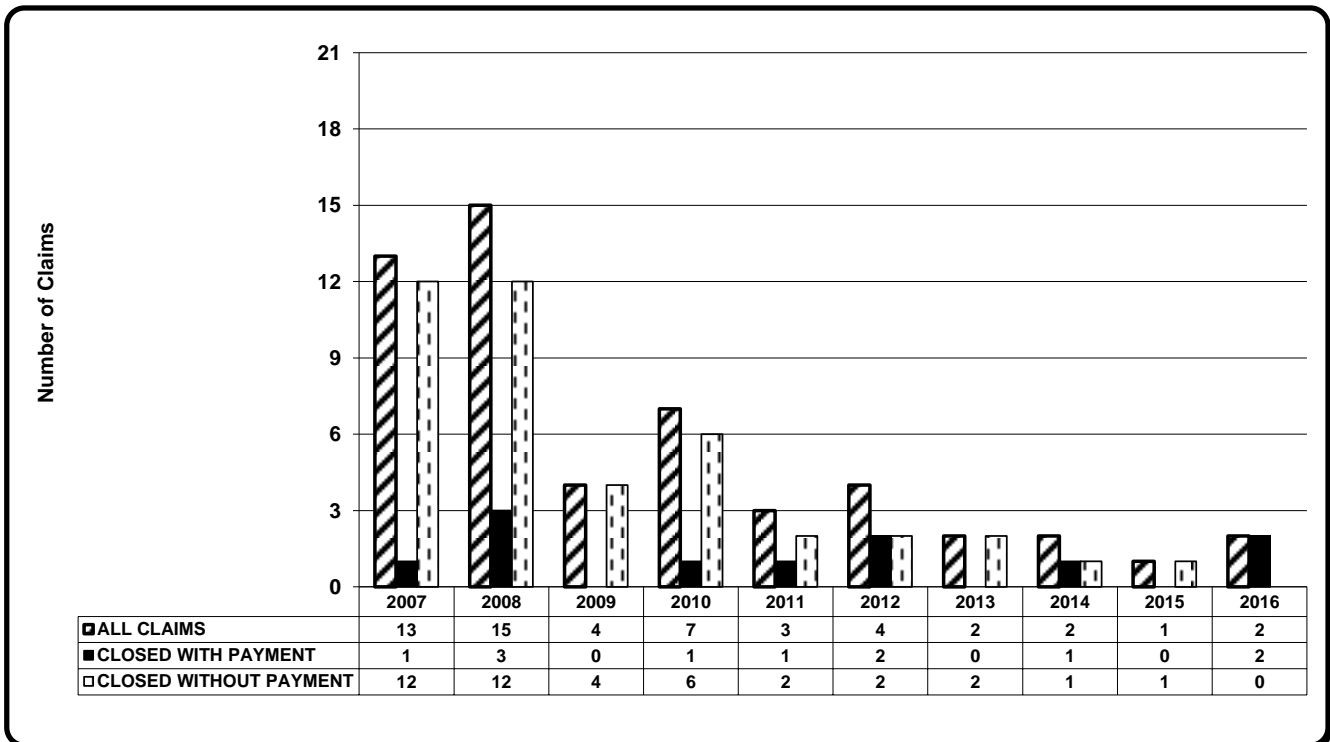


## POST TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

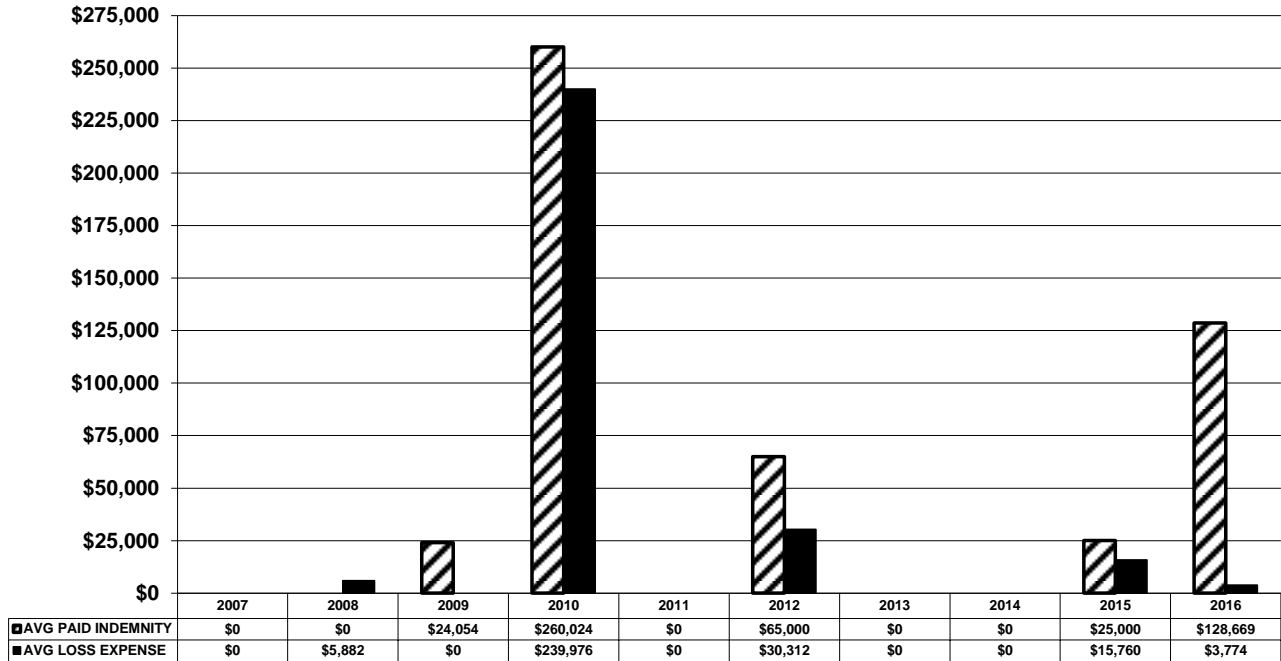


### CLAIM COUNT

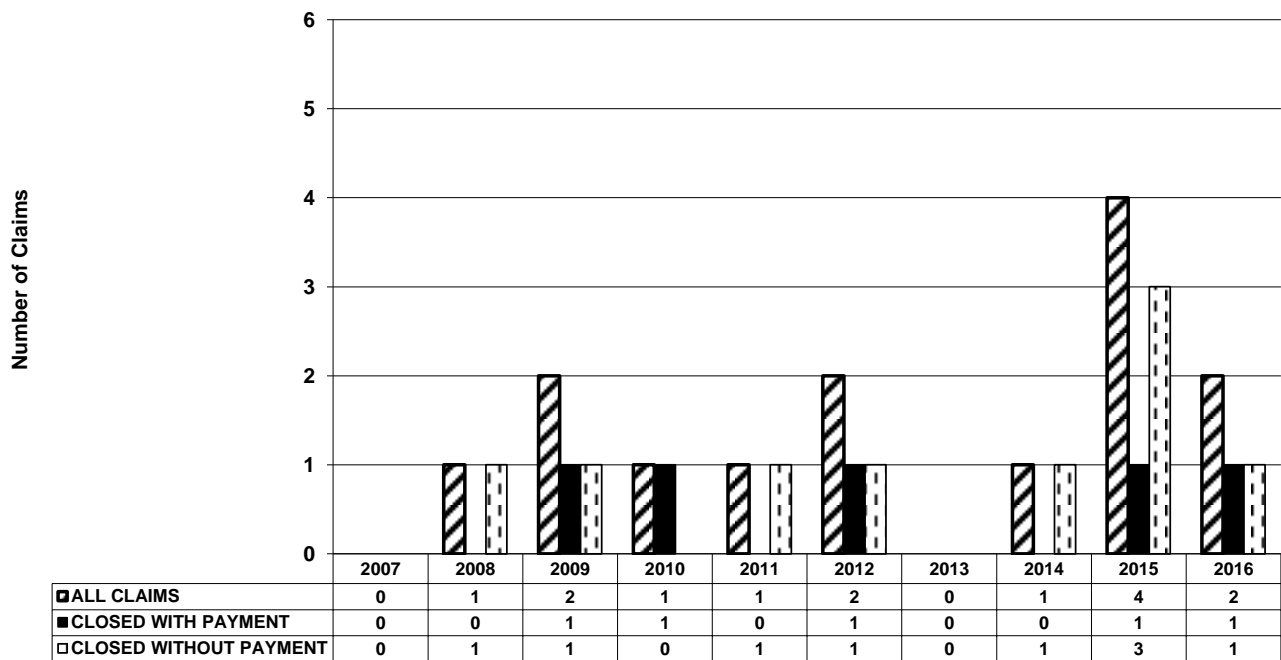


## TAX REPORTING OR PAYMENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
ALLEGED ERRORS OR OMISSIONS**



# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016

ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OTHER	545	67	12.48%	\$91,253	\$6,113,930	9.03%	\$11,590
FAIL TO ASCERTAIN DEADLINE CORRECTLY	273	74	13.78%	\$150,267	\$11,119,761	16.43%	\$14,835
PLANNING OR STRATEGY ERROR	228	65	12.10%	\$209,074	\$13,589,795	20.08%	\$29,379
FAIL TO KNOW OR PROPERLY APPLY THE LAW	182	55	10.24%	\$118,006	\$6,490,336	9.59%	\$24,656
INADEQUATE INVESTIGATION	125	38	7.08%	\$159,305	\$6,053,585	8.94%	\$32,722
PROCRASTINATE OR LACK OF FOLLOW-UP	107	30	5.59%	\$111,160	\$3,334,811	4.93%	\$17,006
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	105	17	3.17%	\$186,935	\$3,177,900	4.69%	\$19,861
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	89	24	4.47%	\$49,951	\$1,198,830	1.77%	\$10,081
FRAUD	78	14	2.61%	\$97,697	\$1,367,756	2.02%	\$29,105
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	78	18	3.35%	\$35,824	\$644,833	0.95%	\$24,431
FAILURE TO CALENDAR PROPERLY	73	41	7.64%	\$104,946	\$4,302,773	6.36%	\$17,089
FAILURE TO REACT TO CALENDAR	69	28	5.21%	\$75,129	\$2,103,605	3.11%	\$7,846
CONFLICT OF INTEREST	63	18	3.35%	\$234,167	\$4,215,010	6.23%	\$72,139
FAIL TO OBTAIN CLIENTS CONSENT	45	7	1.30%	\$72,714	\$509,000	0.75%	\$19,317
CLERICAL ERROR	43	12	2.23%	\$32,675	\$392,094	0.58%	\$11,533
VIOLATION OF CIVIL RIGHTS	36	4	0.74%	\$101,250	\$405,000	0.60%	\$9,512
ERROR IN MATHEMATICAL CALCULATION	16	9	1.68%	\$51,073	\$459,659	0.68%	\$17,003
LIBEL OR SLANDER	16	2	0.37%	\$35,000	\$70,000	0.10%	\$8,307
FAIL TO ANTICIPATE TAX CONSEQUENCES	15	4	0.74%	\$373,417	\$1,493,669	2.21%	\$19,726
ERROR IN PUBLIC RECORD SEARCH	12	5	0.93%	\$73,021	\$365,106	0.54%	\$25,866
IMPROPER WITHDRAWAL FROM REPRESENTATION	12	3	0.56%	\$24,167	\$72,500	0.11%	\$10,094
LOST FILE, DOCUMENT OR EVIDENCE	5	2	0.37%	\$106,250	\$212,500	0.31%	\$26,098
NOT SPECIFIED	1	0	0.00%	N/A	\$0	0.00%	\$0
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# LEGAL MALPRACTICE INSURANCE

## INDEMNITY ANALYSIS

### CLAIMS CLOSED IN 2016

ERROR OR OMISSION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
FAIL TO KNOW OR PROPERLY APPLY THE LAW	35	10	16.13%	\$86,960	\$869,601	9.67%	\$9,075
PLANNING OR STRATEGY ERROR	21	5	8.06%	\$224,000	\$1,120,000	12.45%	\$20,537
FAIL TO ASCERTAIN DEADLINE CORRECTLY	18	9	14.52%	\$50,833	\$457,500	5.09%	\$7,955
FAILURE TO CALENDAR PROPERLY	16	6	9.68%	\$250,879	\$1,505,275	16.74%	\$2,377
INADEQUATE INVESTIGATION	15	6	9.68%	\$444,125	\$2,664,750	29.63%	\$29,908
OTHER	12	4	6.45%	\$214,749	\$858,995	9.55%	\$22,815
FAIL TO FOLLOW CLIENTS INSTRUCTIONS	10	3	4.84%	\$27,167	\$81,500	0.91%	\$11,687
PROCRASTINATION OR LACK OF FOLLOW-UP	10	4	6.45%	\$83,000	\$332,000	3.69%	\$7,930
CONFLICT OF INTEREST	8	4	6.45%	\$83,802	\$335,207	3.73%	\$15,441
MALICIOUS PROSECUTION OR ABUSE OF PROCESS	8	1	1.61%	\$17,000	\$17,000	0.19%	\$17,687
FRAUD	7	0	0.00%	N/A	\$0	0.00%	\$8,320
CLERICAL ERROR	3	2	3.23%	\$51,184	\$102,368	1.14%	\$20,365
ERROR IN MATHEMATICAL CALCULATION	3	3	4.84%	\$41,667	\$125,000	1.39%	\$5,699
IMPROPER WITHDRAWAL FROM REPRESENTATION	3	0	0.00%	N/A	\$0	0.00%	\$0
LIBEL OR SLANDER	3	1	1.61%	\$55,000	\$55,000	0.61%	\$18,936
VIOLATION OF CIVIL RIGHTS	3	0	0.00%	N/A	\$0	0.00%	\$584
FAIL TO ANTICIPATE TAX CONSEQUENCES	2	1	1.61%	\$128,669	\$128,669	1.43%	\$3,774
FAIL TO FILE DOCUMENTS WITH NO DEADLINE	2	1	1.61%	\$95,000	\$95,000	1.06%	\$10,528
FAIL TO OBTAIN CLIENTS CONSENT	2	1	1.61%	\$50,000	\$50,000	0.56%	\$18,953
LOST FILE; DOCUMENT OR EVIDENCE	2	1	1.61%	\$195,000	\$195,000	2.17%	\$18,716
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

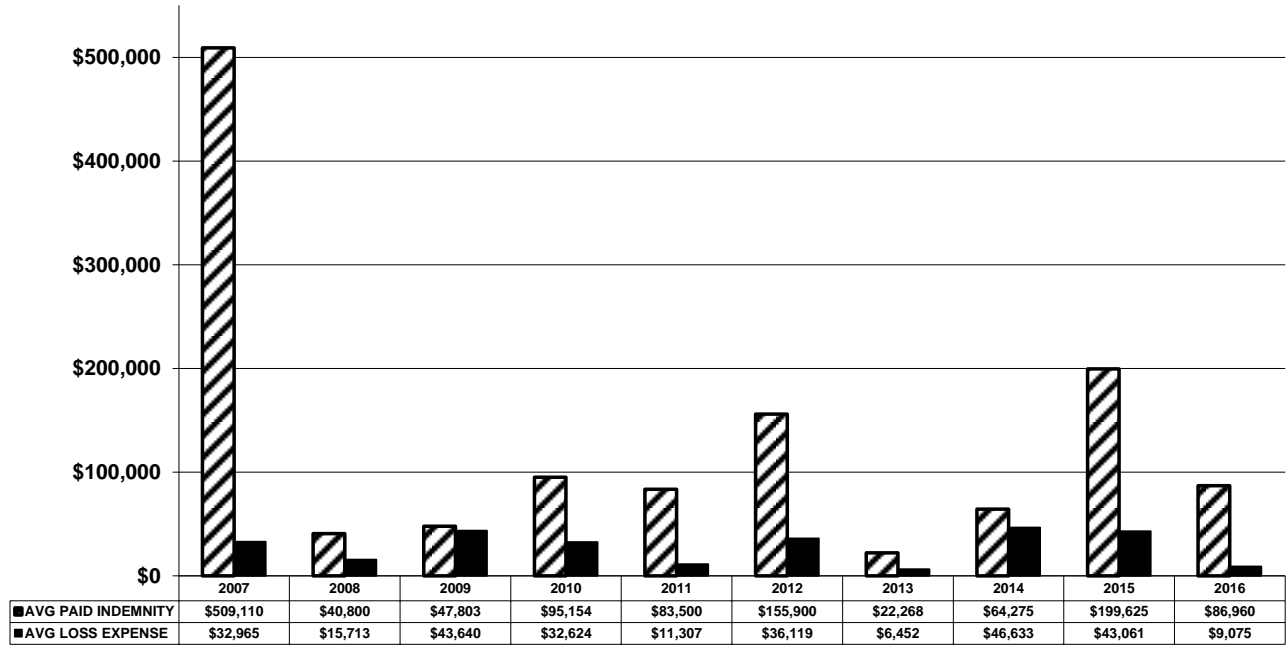
**TRENDS  
OF THE TOP TEN  
ERRORS OR OMISSIONS  
OF 2016**



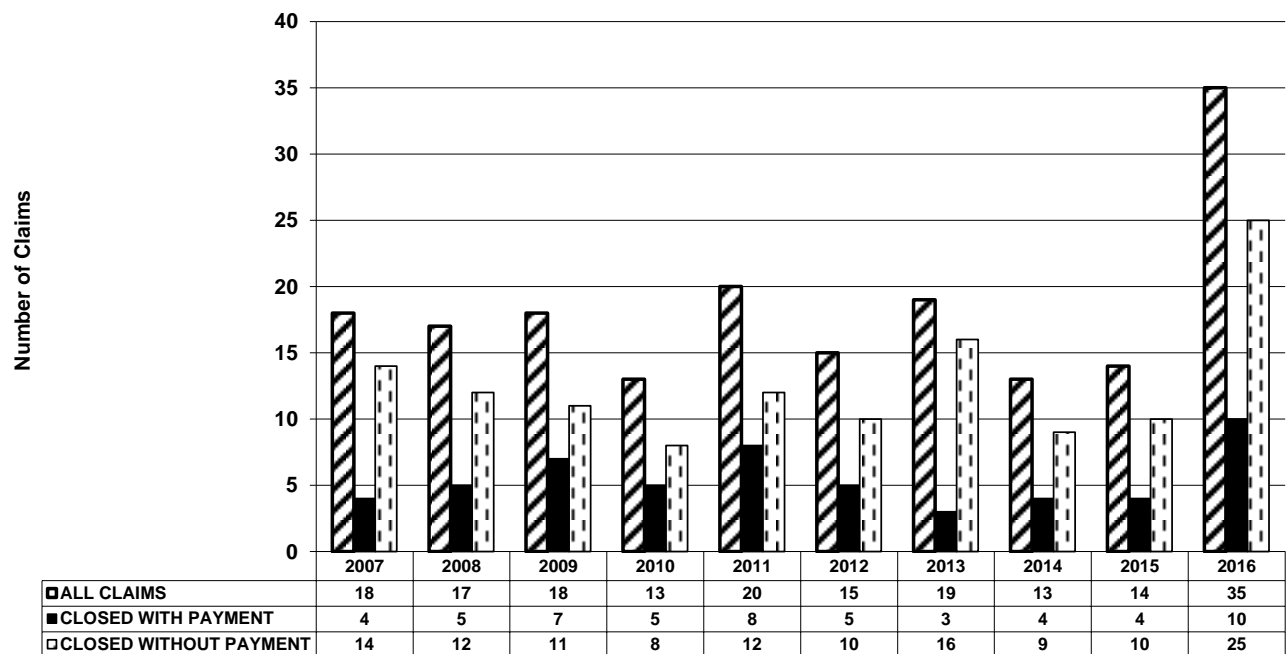


## FAILURE TO KNOW OR PROPERLY APPLY THE LAW

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

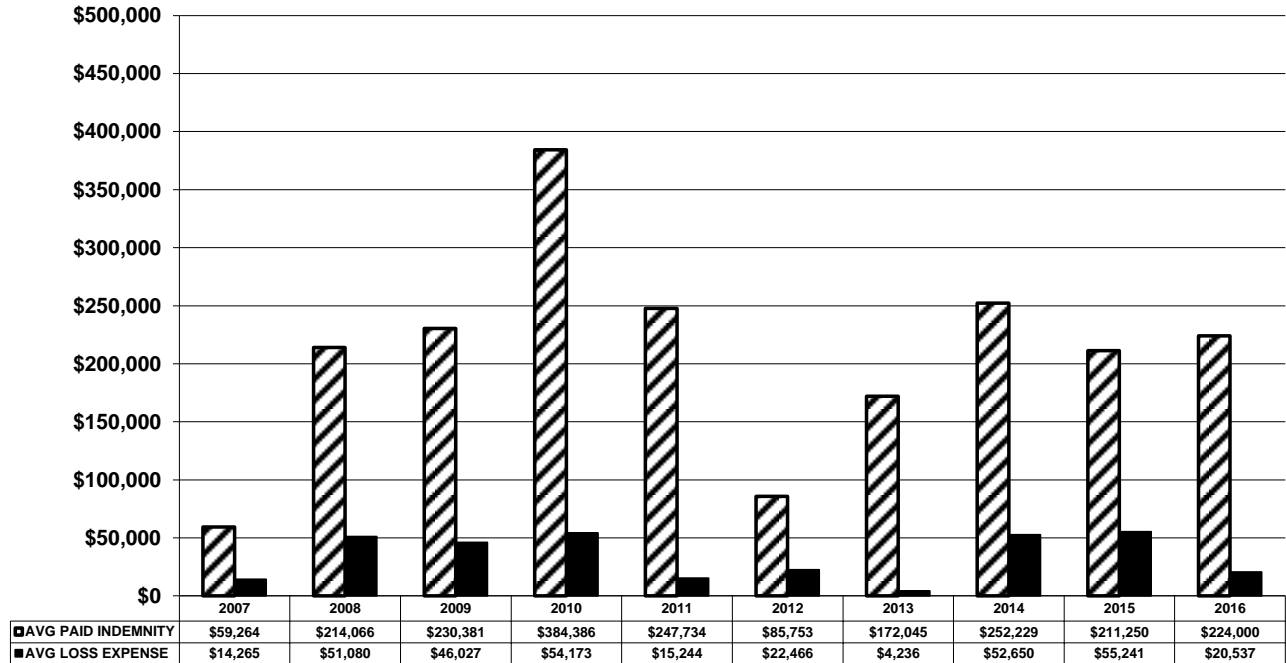


### CLAIM COUNT

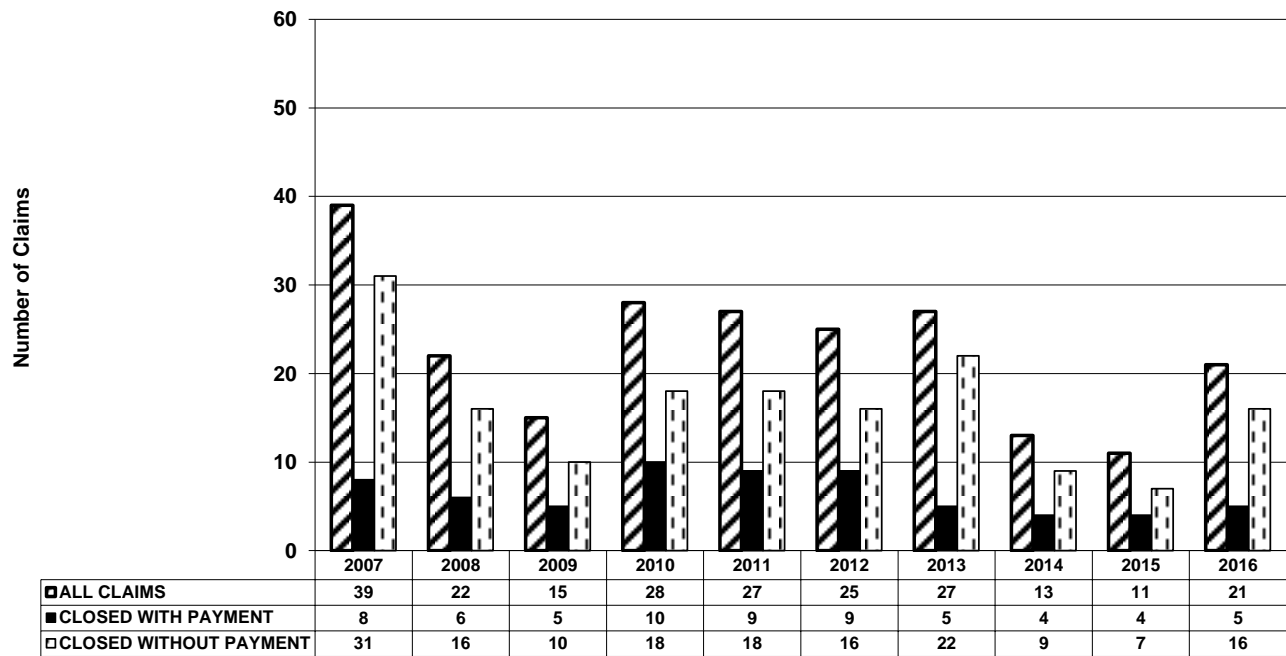


## PLANNING OR STRATEGY ERROR

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

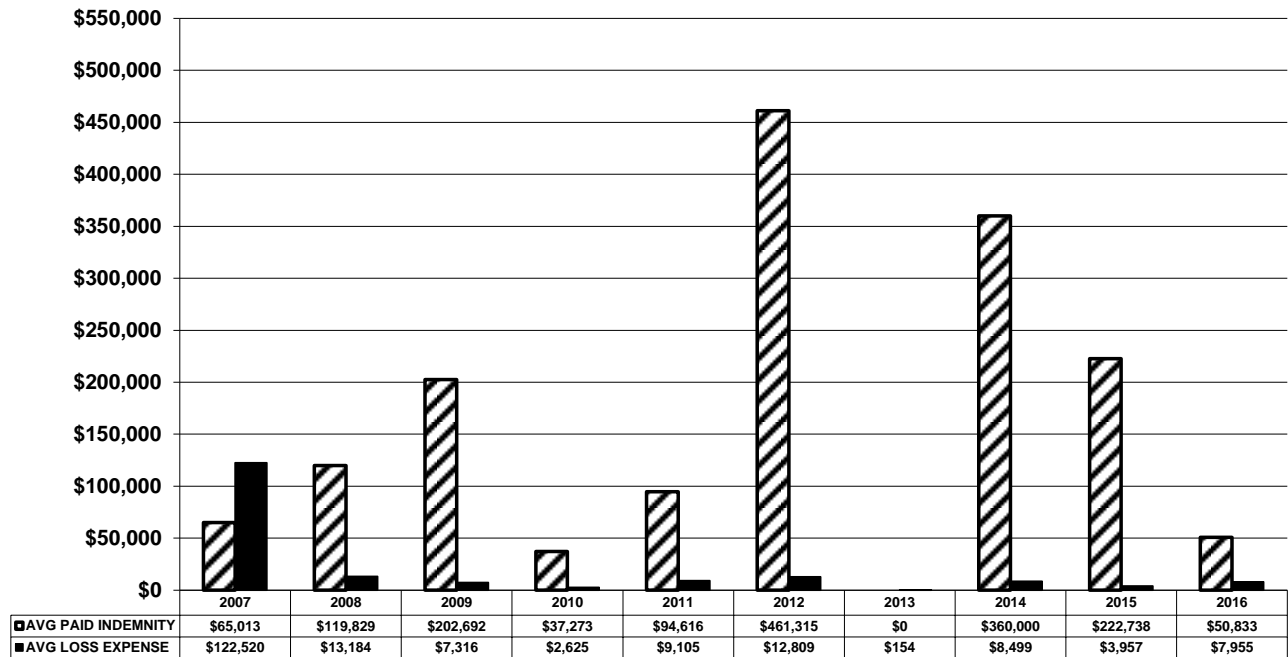


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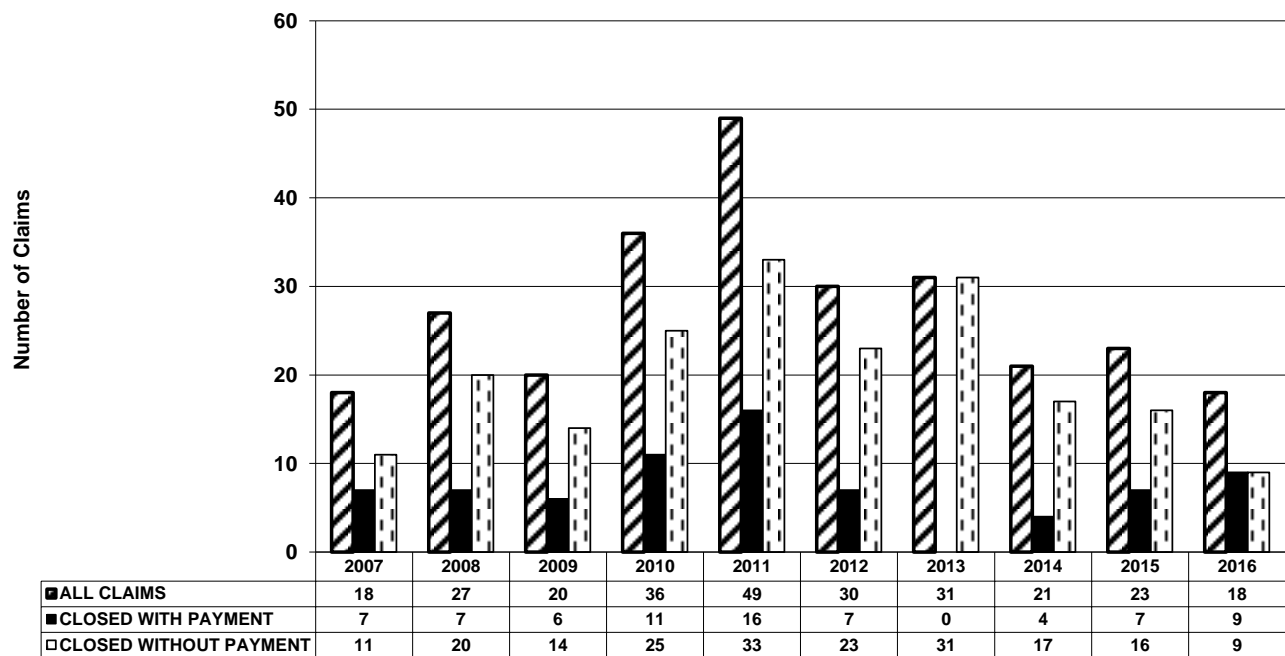


## FAILURE TO ASCERTAIN DEADLINE CORRECTLY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

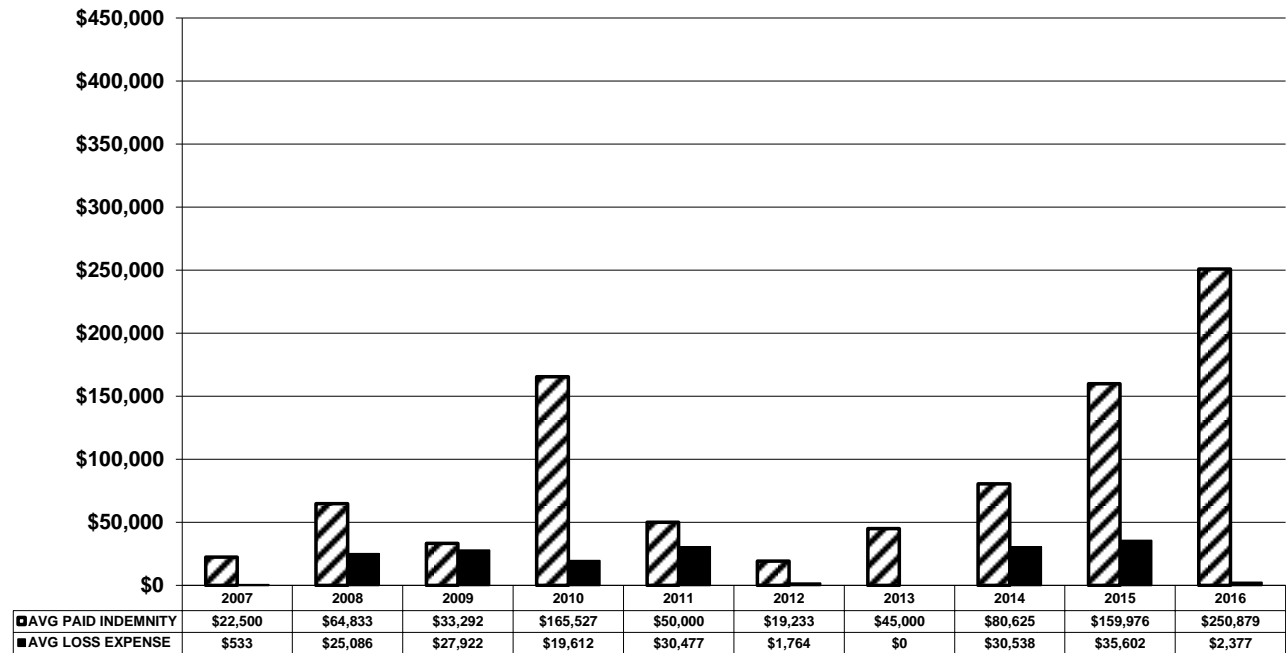


### CLAIM COUNT

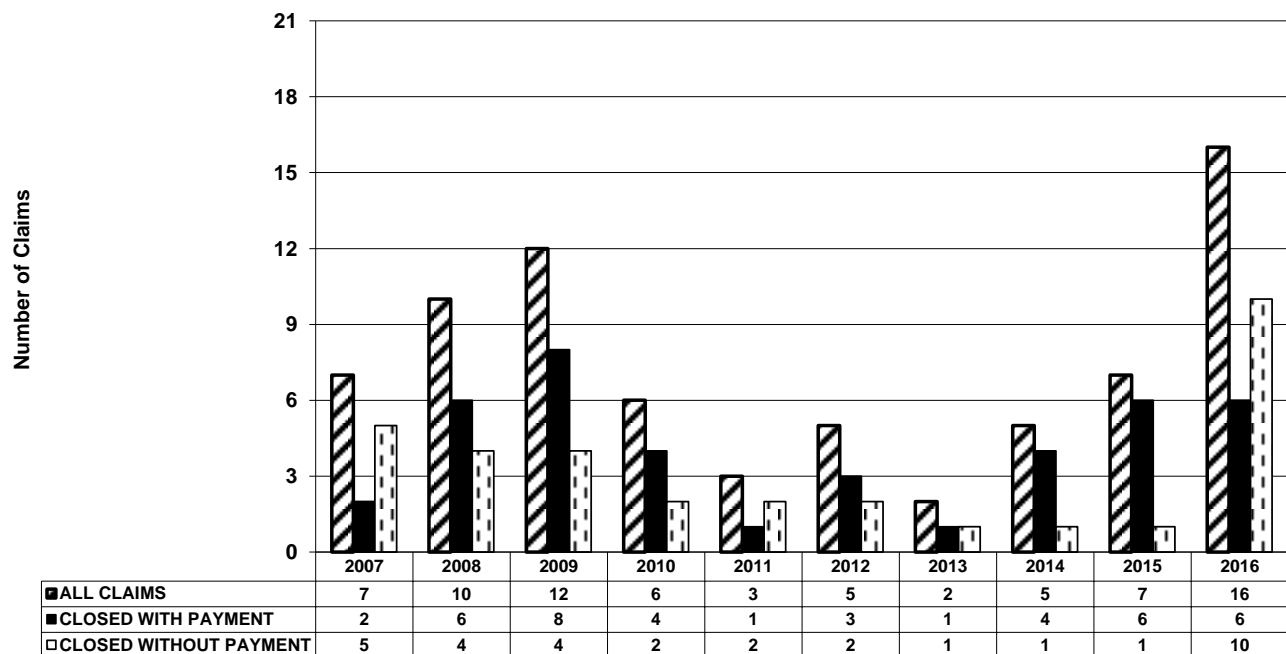


## FAILURE TO CALENDAR PROPERLY

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

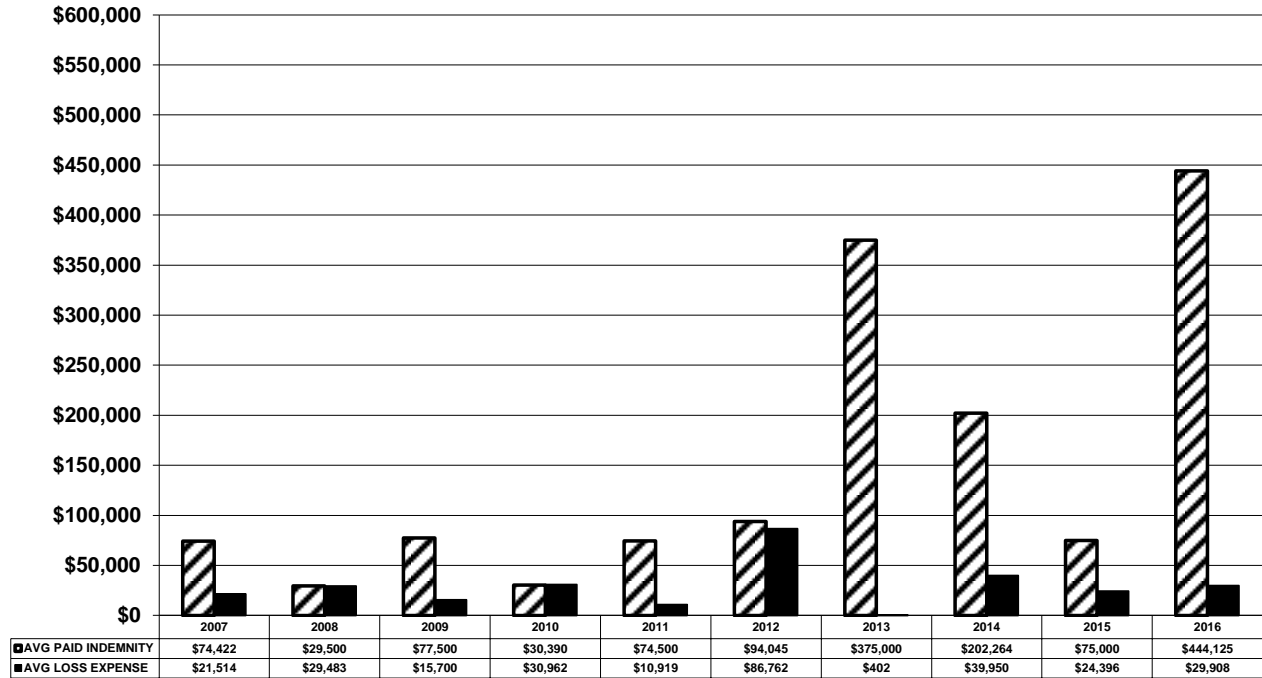


### CLAIM COUNT

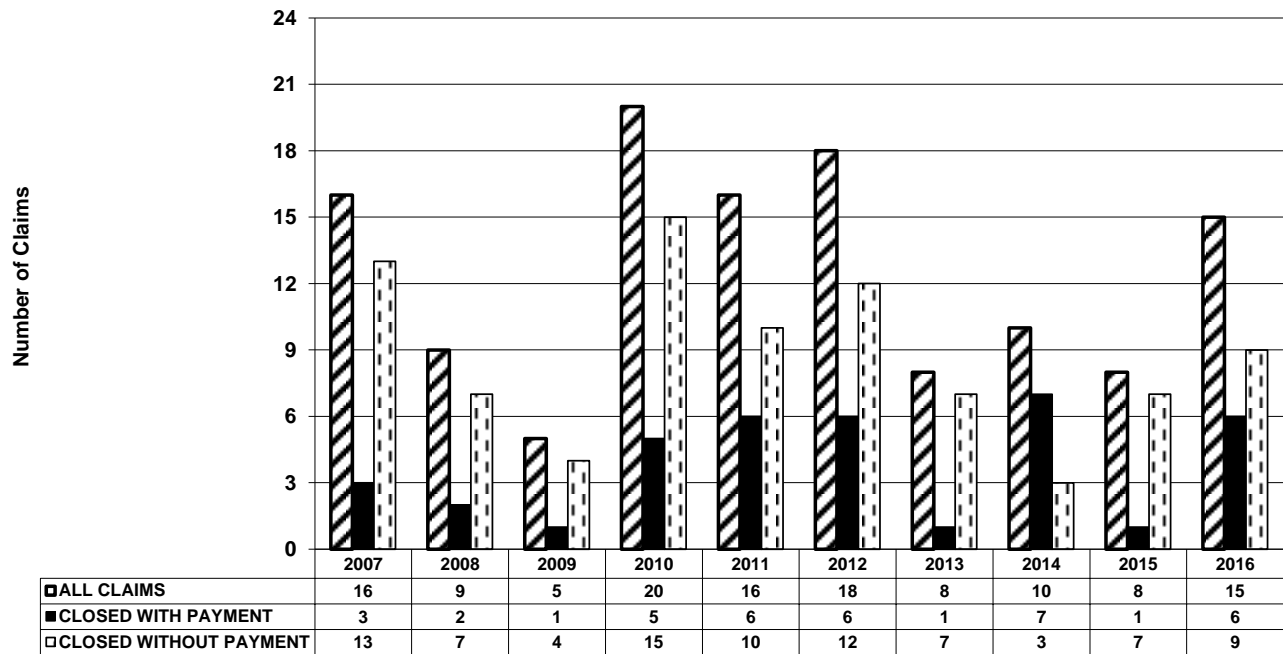


## INADEQUATE INVESTIGATION

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

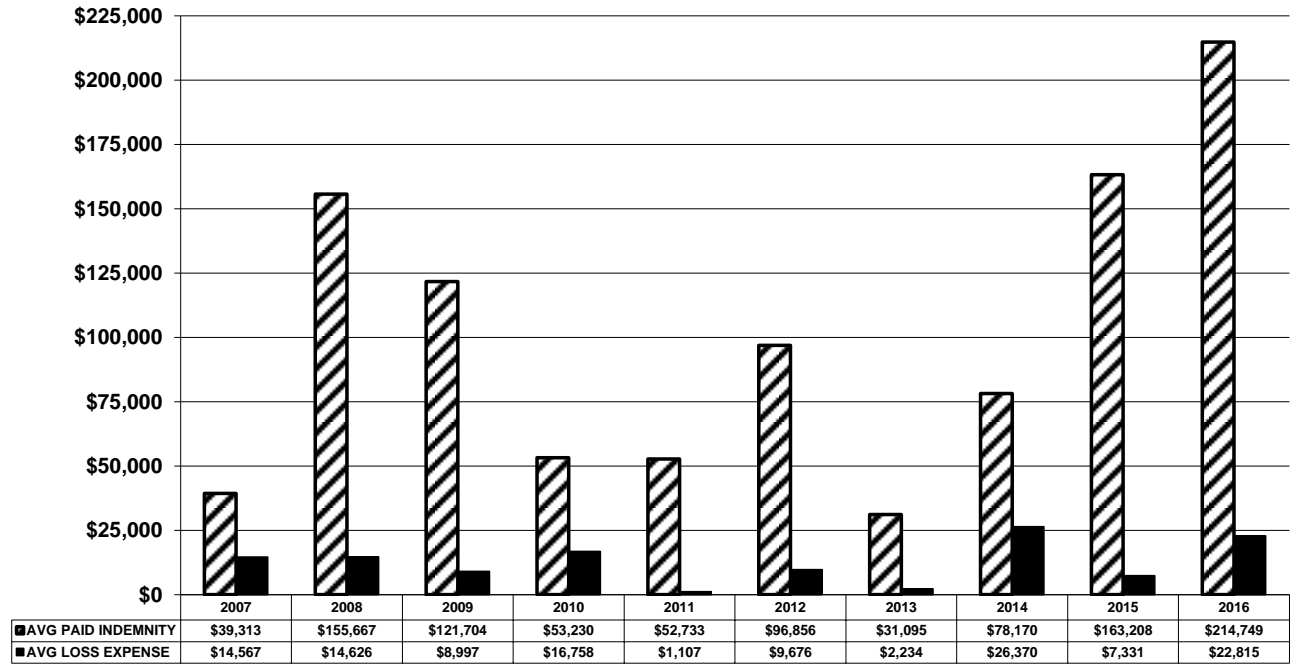


### CLAIM COUNT

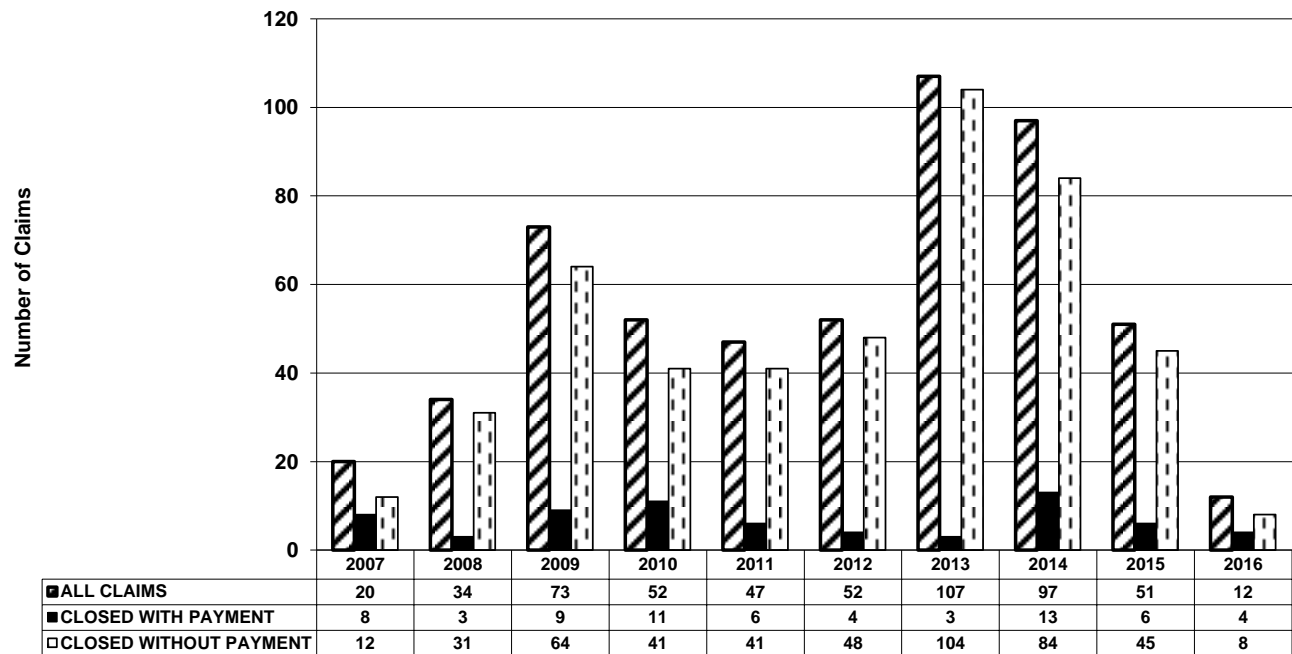


## OTHER

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

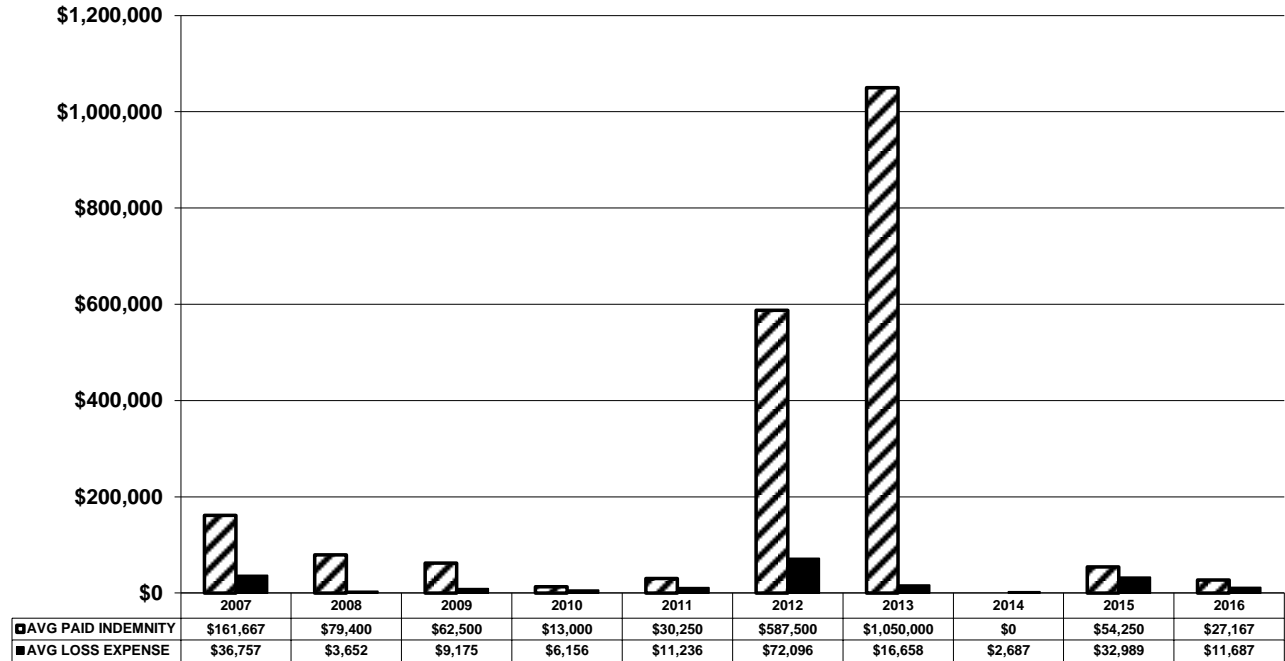


## CLAIM COUNT

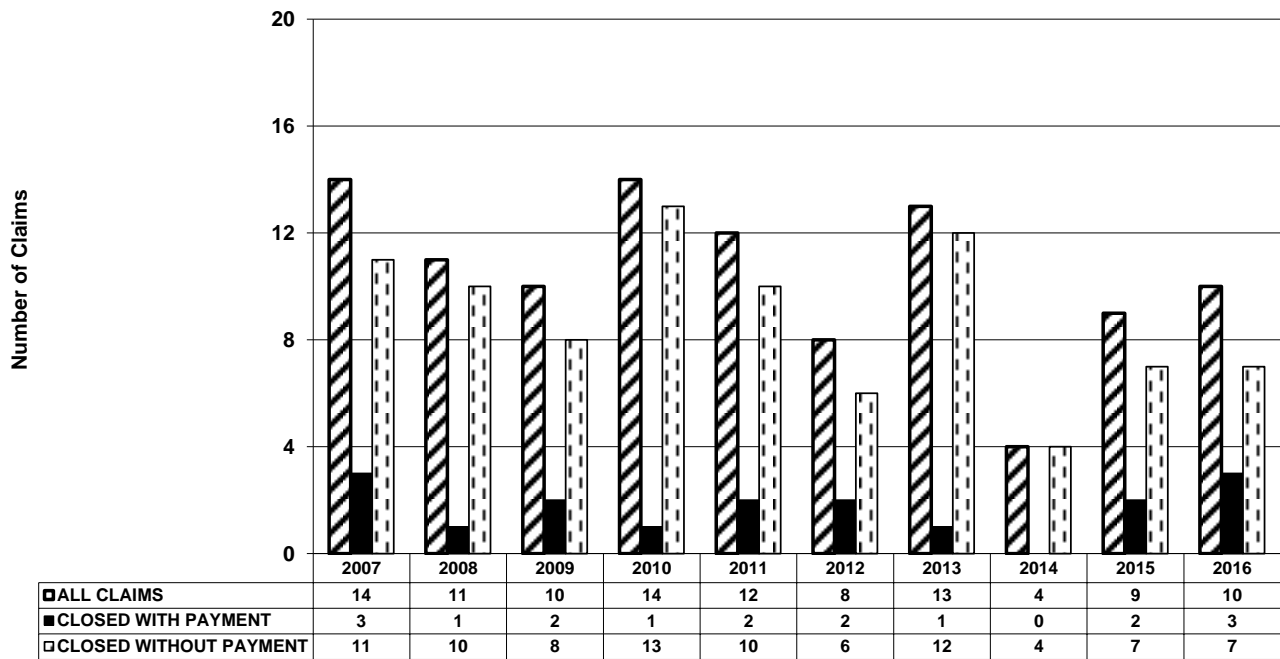


## FAILURE TO FOLLOW CLIENTS INSTRUCTIONS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

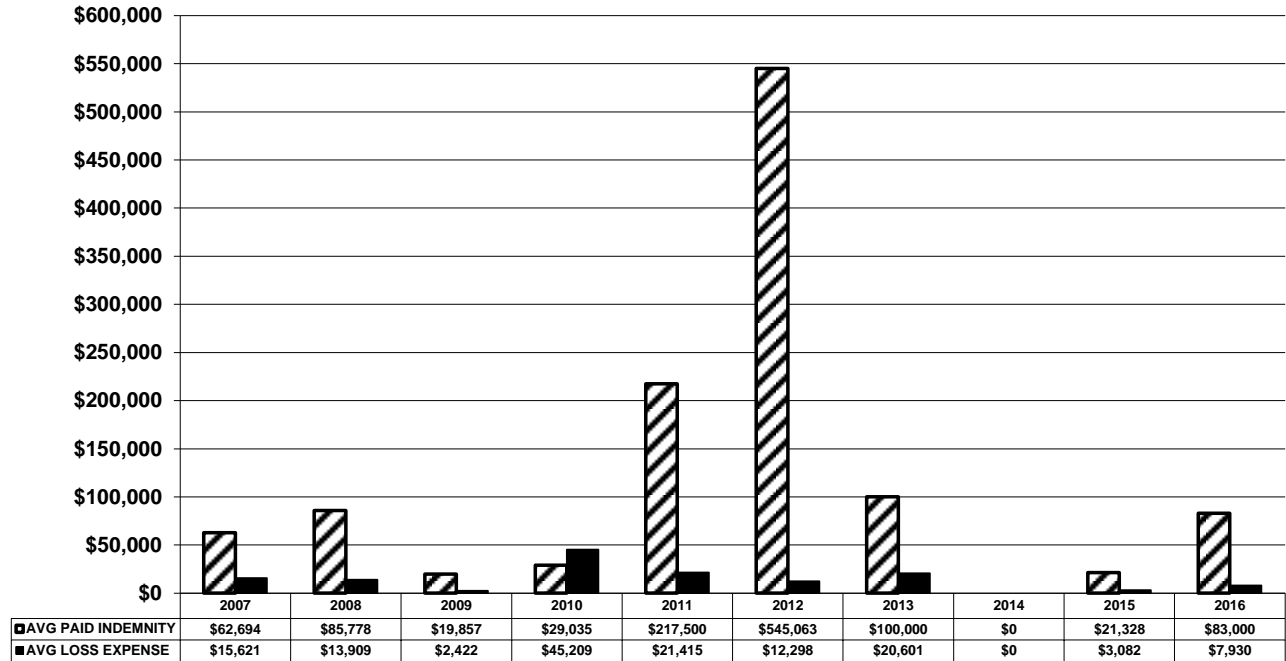


### CLAIM COUNT

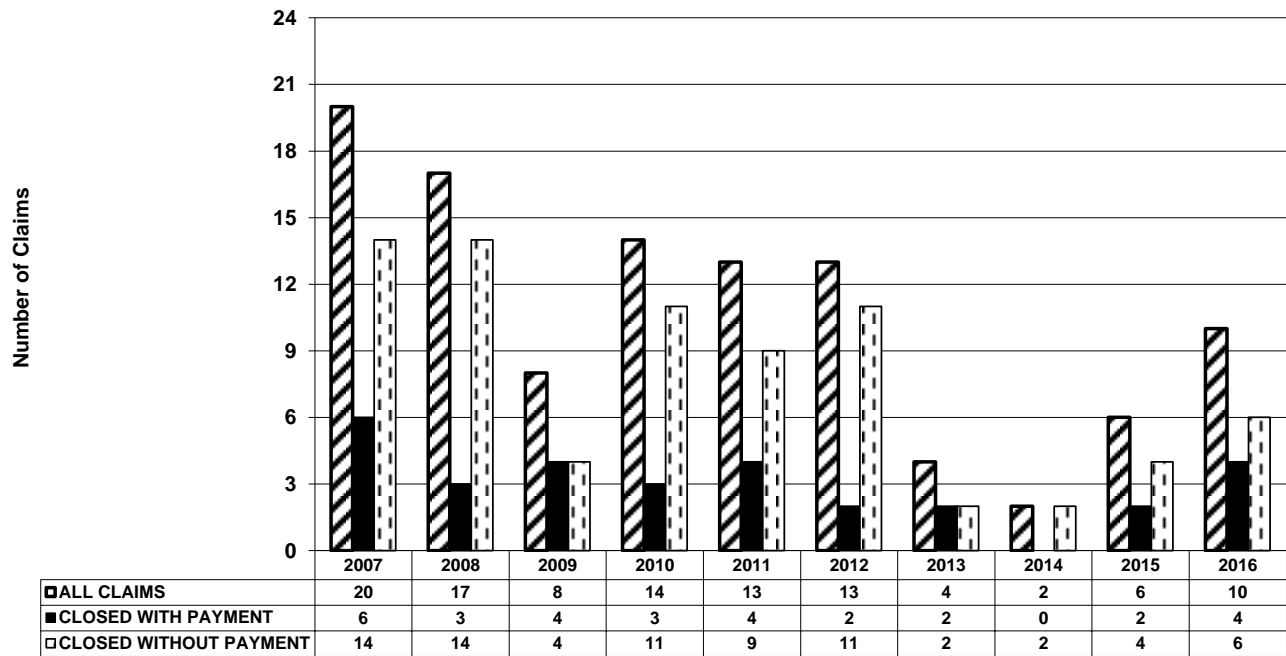


## PROCRASTINATION OR LACK OF FOLLOW-UP

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



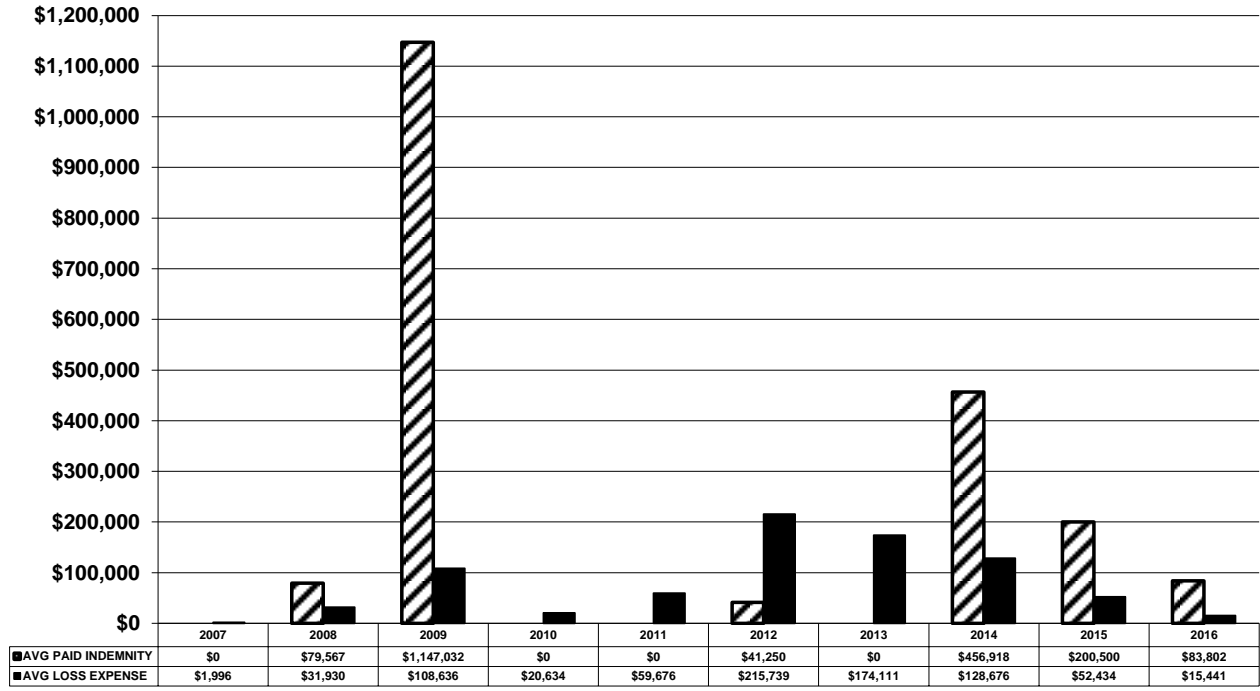
### CLAIM COUNT



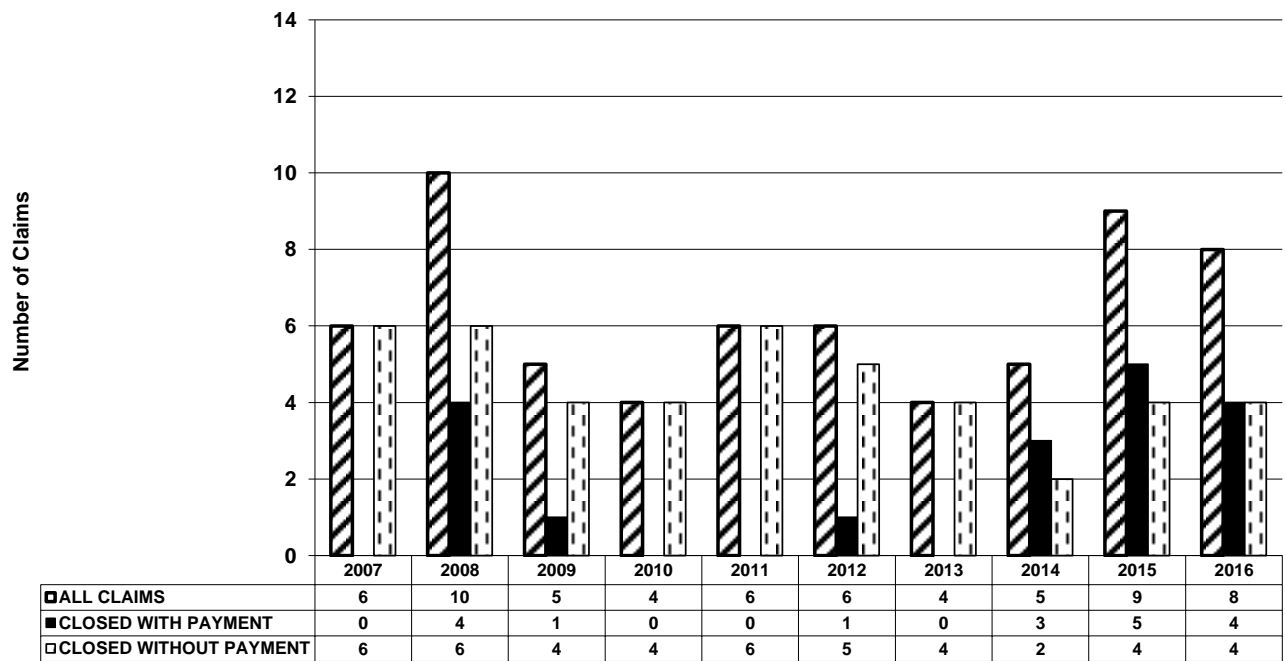


## CONFLICT OF INTEREST

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

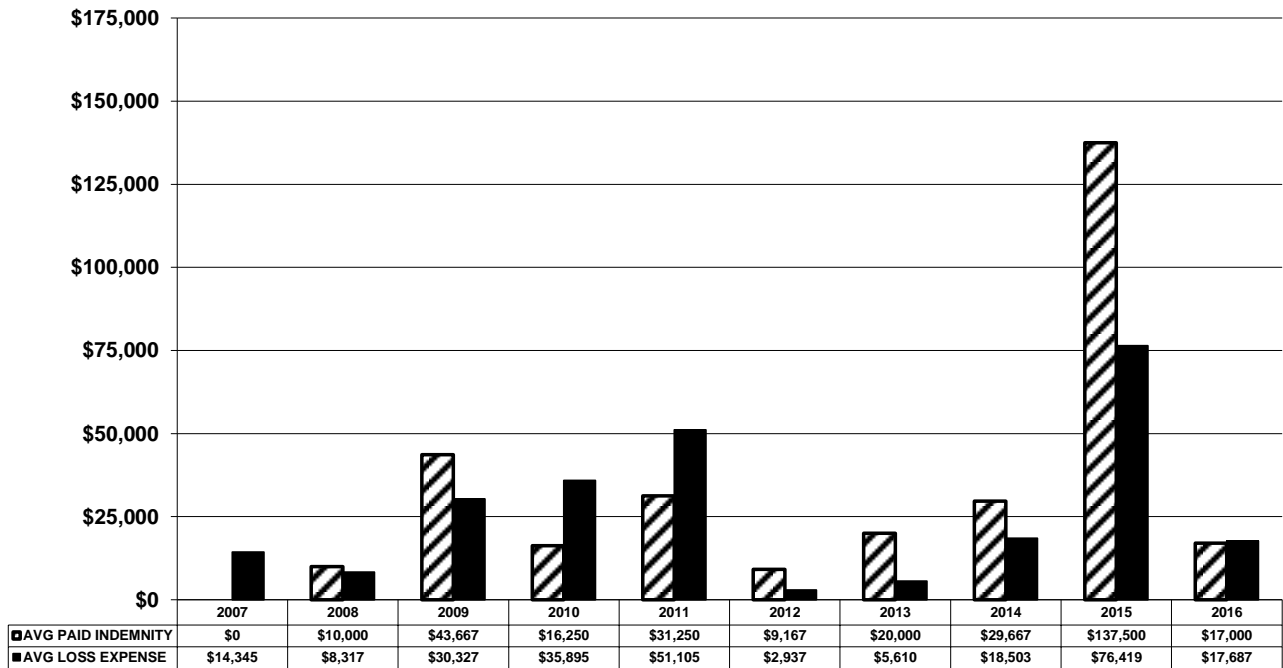


### CLAIM COUNT

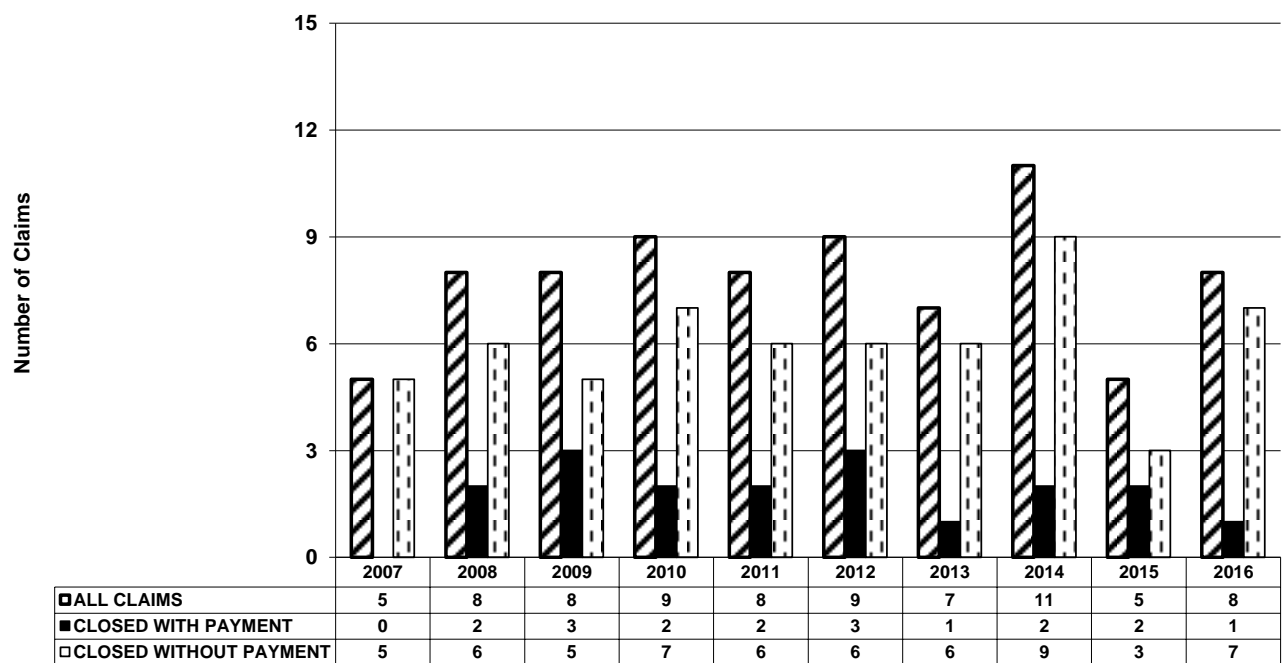


## MALICIOUS PROSECUTION OR ABUSE OF PROCESS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
CLAIM DISPOSITIONS**



# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016

CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE TRIAL OR HEARING	895	313	58.29%	\$135,490	\$42,408,503	62.65%	\$30,753
BEFORE FILING SUIT OR DEMANDING HEARING	888	196	36.50%	\$89,856	\$17,611,868	26.02%	\$3,128
CLAIM OR SUIT ABANDONED	203	1	0.19%	\$6,500	\$6,500	0.01%	\$1,779
AFTER APPEAL	60	3	0.56%	\$841,851	\$2,525,553	3.73%	\$92,740
AFTER JUDGMENT, BEFORE APPEAL	52	10	1.86%	\$218,472	\$2,184,719	3.23%	\$51,162
AFTER TRIAL OR HEARING, BEFORE JUDGMENT	49	5	0.93%	\$133,977	\$669,885	0.99%	\$35,418
DURING TRIAL OR HEARING	44	7	1.30%	\$292,632	\$2,048,425	3.03%	\$50,549
DURING APPEAL	14	2	0.37%	\$118,500	\$237,000	0.35%	\$71,313
DURING REVIEW PANEL	11	0	0.00%	N/A	\$0	0.00%	\$7,168
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2016

CLAIM DISPOSITION	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
BEFORE FILING SUIT OR DEMANDING HEARING	83	22	35.48%	\$111,386	\$2,450,493	27.25%	\$1,268
BEFORE TRIAL OR HEARING	73	35	56.45%	\$146,832	\$5,139,123	57.15%	\$23,368
CLAIM OR SUIT ABANDONED	15	1	1.61%	\$6,500	\$6,500	0.07%	\$4,201
AFTER APPEAL	4	0	0.00%	N/A	\$0	0.00%	\$35,165
AFTER JUDGMENT, BEFORE APPEAL	4	3	4.84%	\$196,335	\$589,004	6.55%	\$51,791
DURING REVIEW PANEL	2	0	0.00%	N/A	\$0	0.00%	\$0
DURING APPEAL	1	0	0.00%	N/A	\$0	0.00%	\$0
DURING TRIAL OR HEARING	1	1	1.61%	\$807,745	\$807,745	8.98%	\$190,670
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

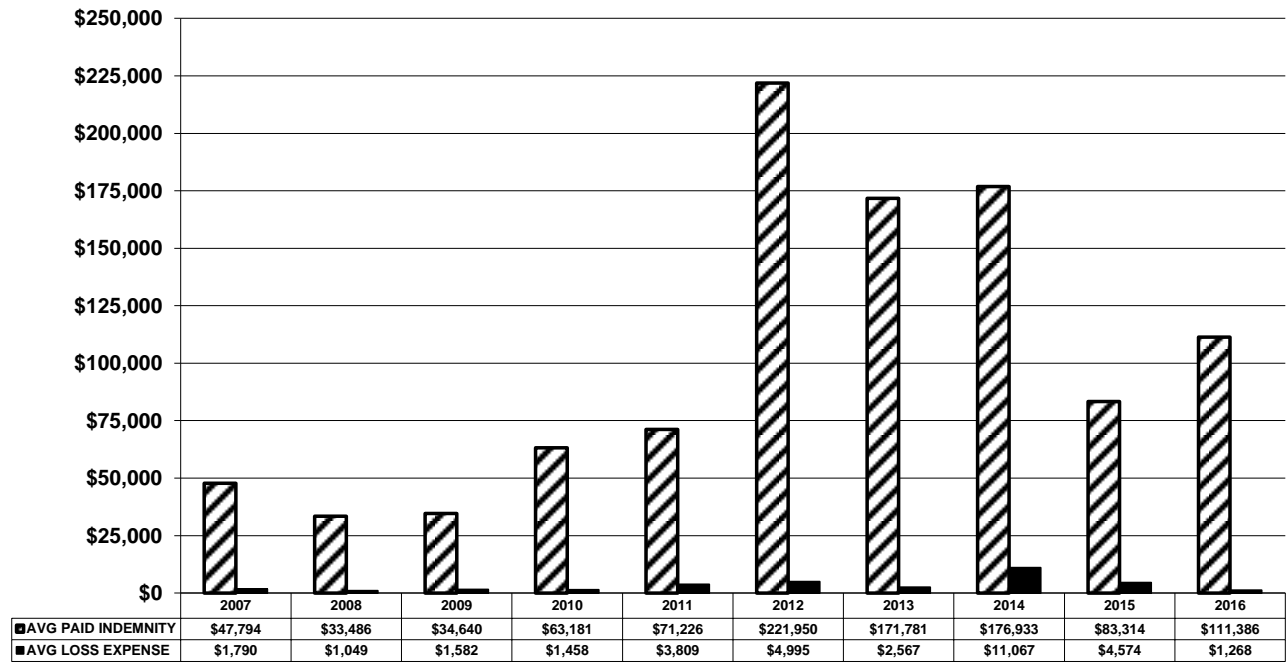
**TRENDS  
OF THE TOP EIGHT  
CLAIM DISPOSITIONS  
OF 2016**



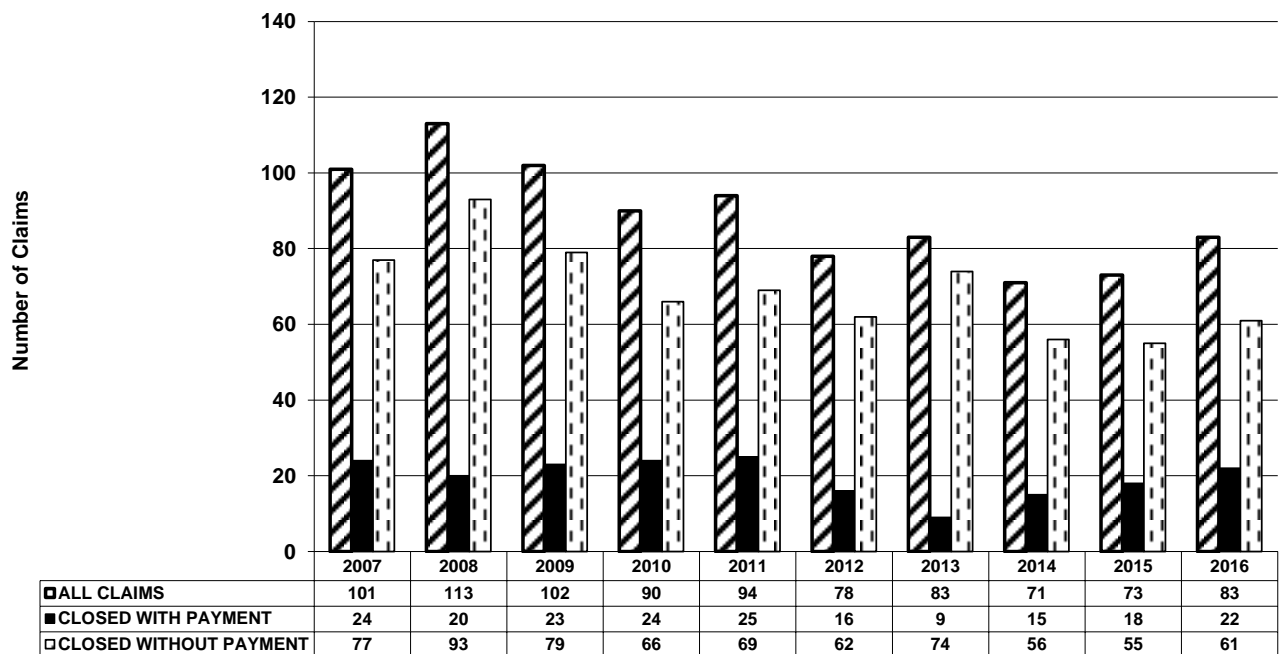


## BEFORE FILING SUIT OR DEMANDING HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

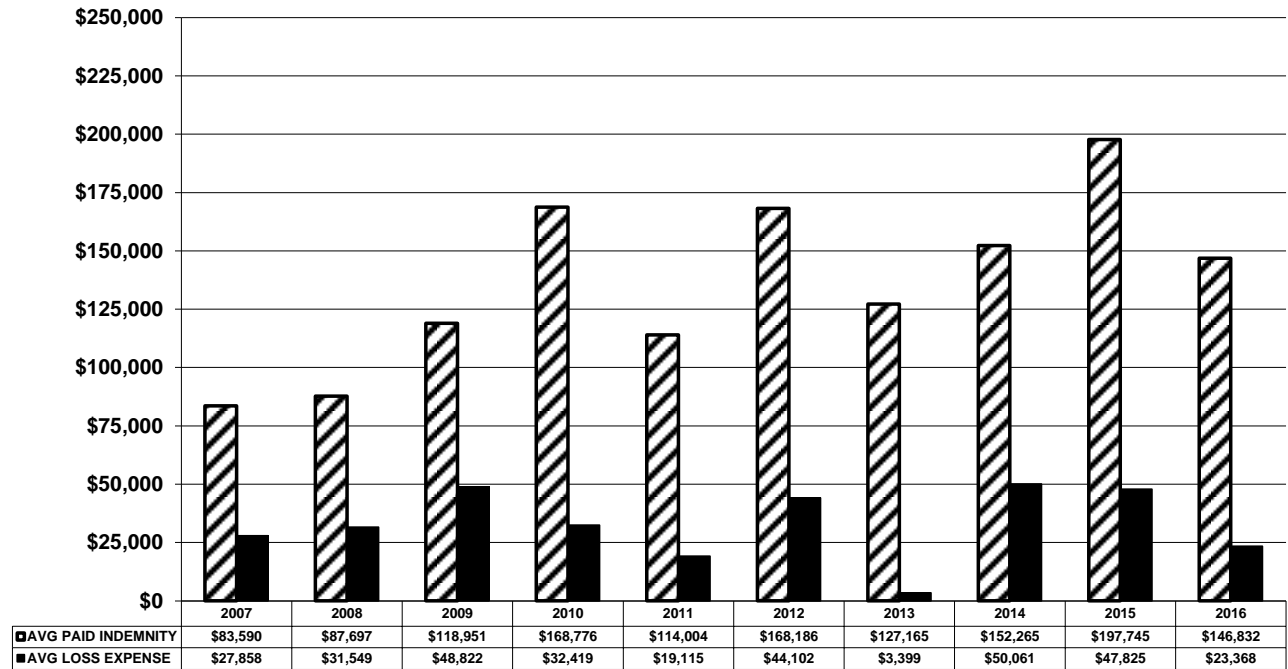


### CLAIM COUNT

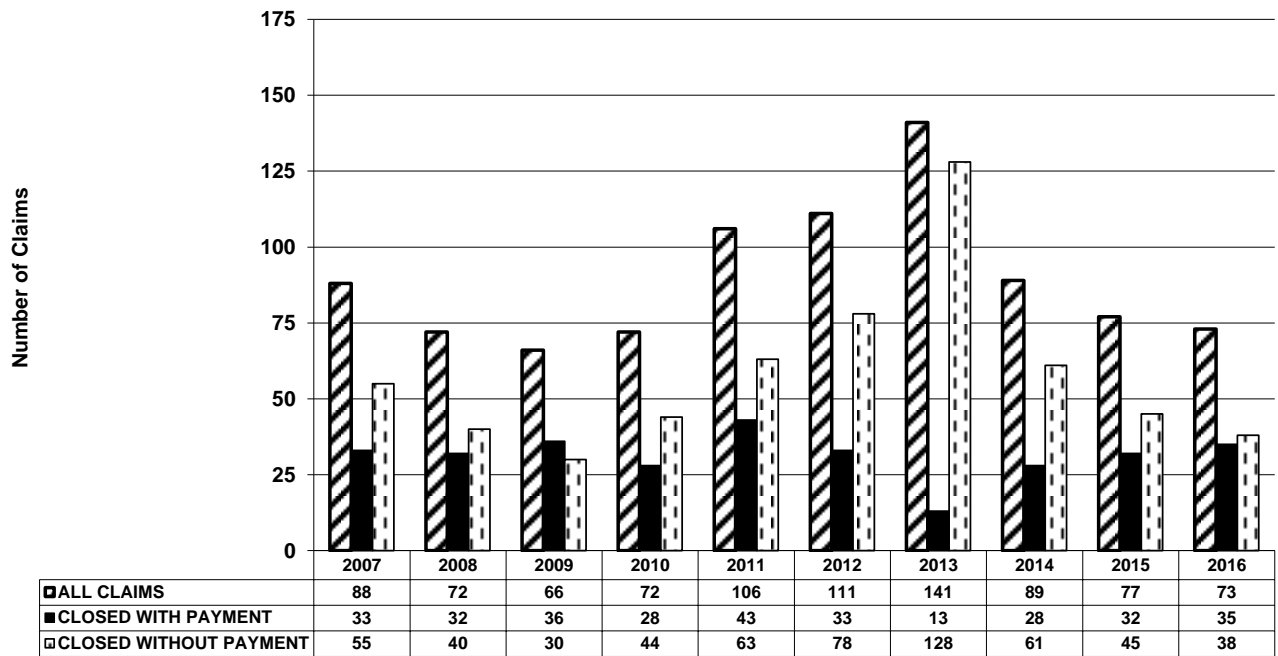


## BEFORE TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

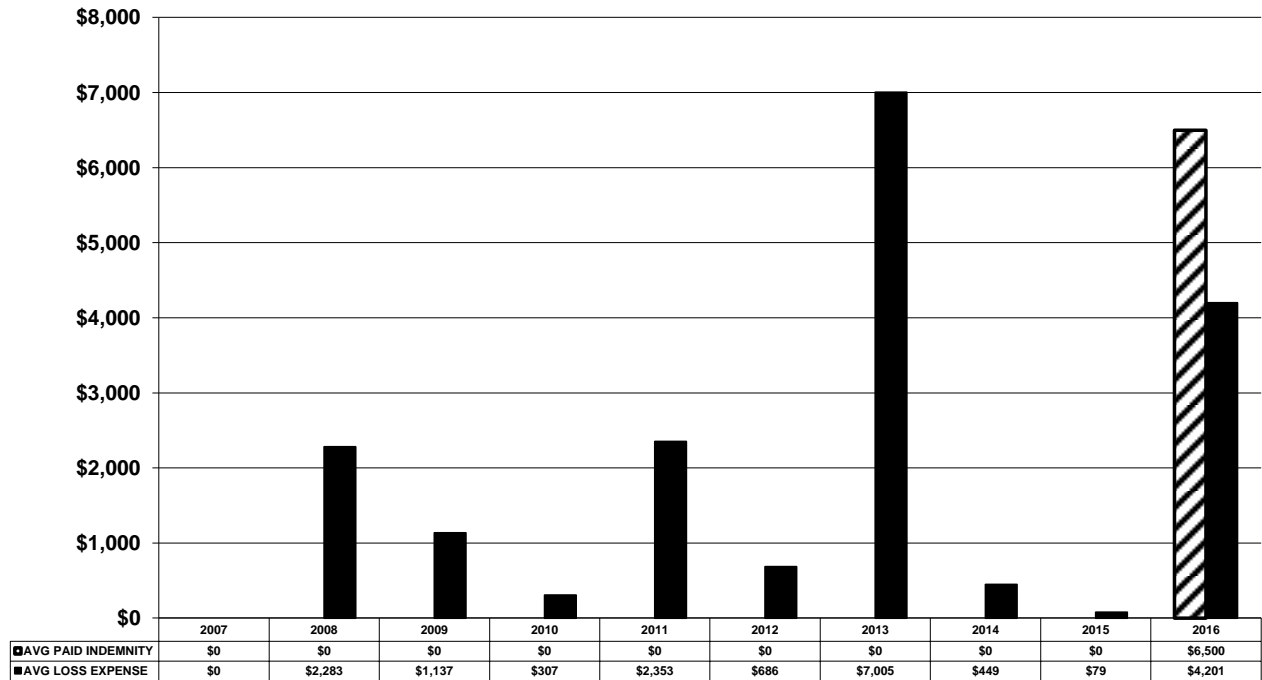


### CLAIM COUNT

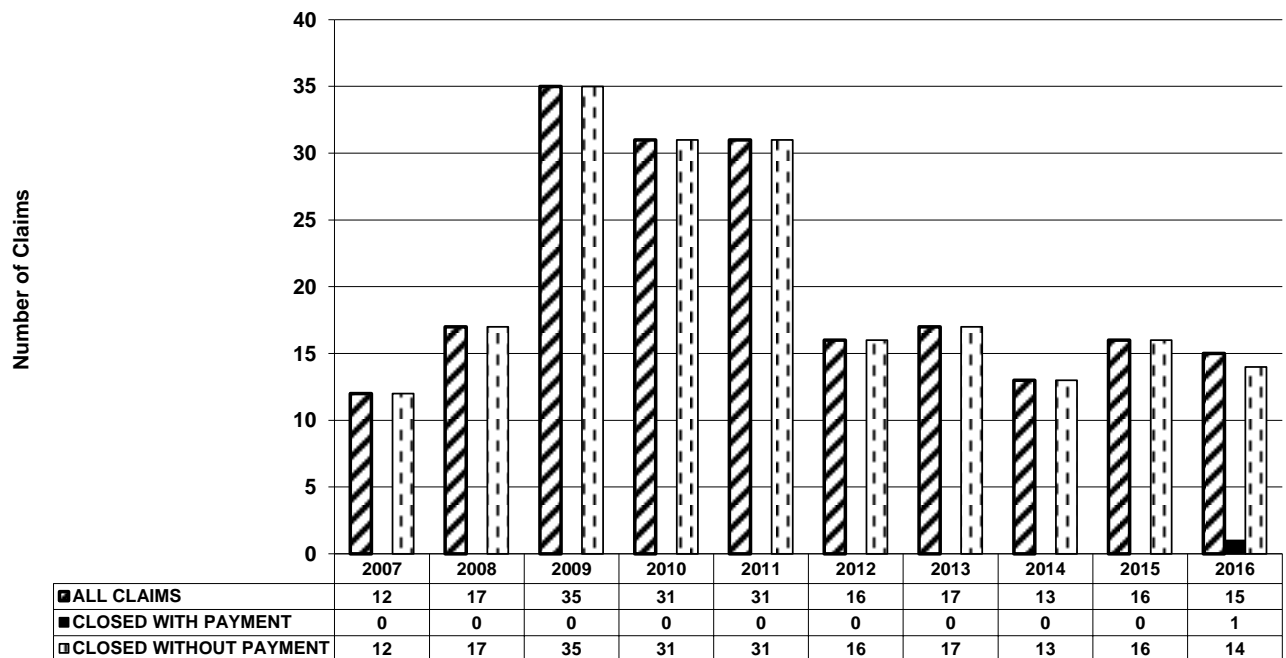


## CLAIM OR SUIT ABANDONED

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

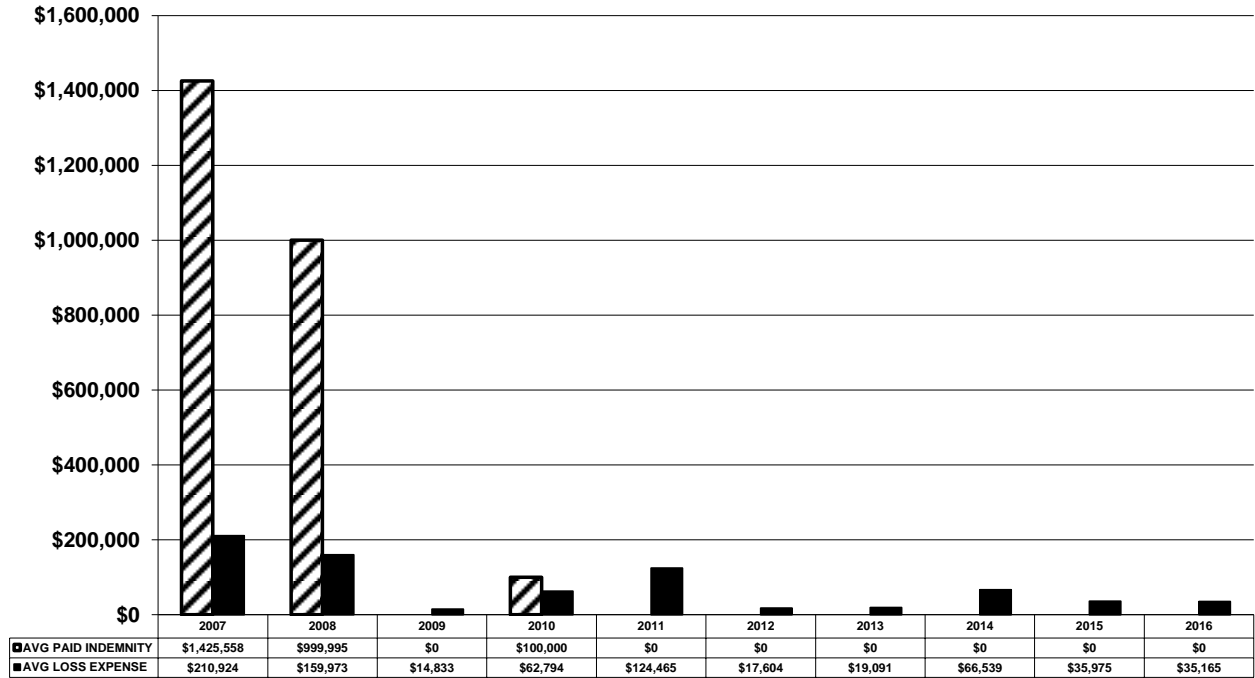


### CLAIM COUNT

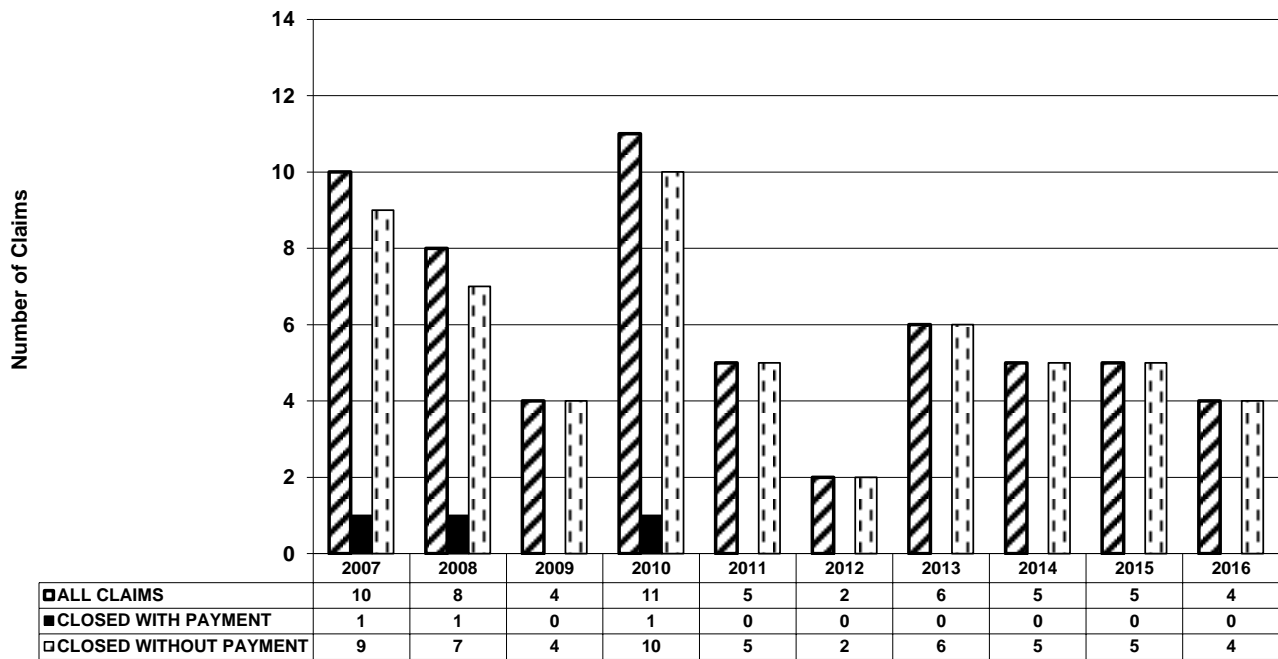


## AFTER APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

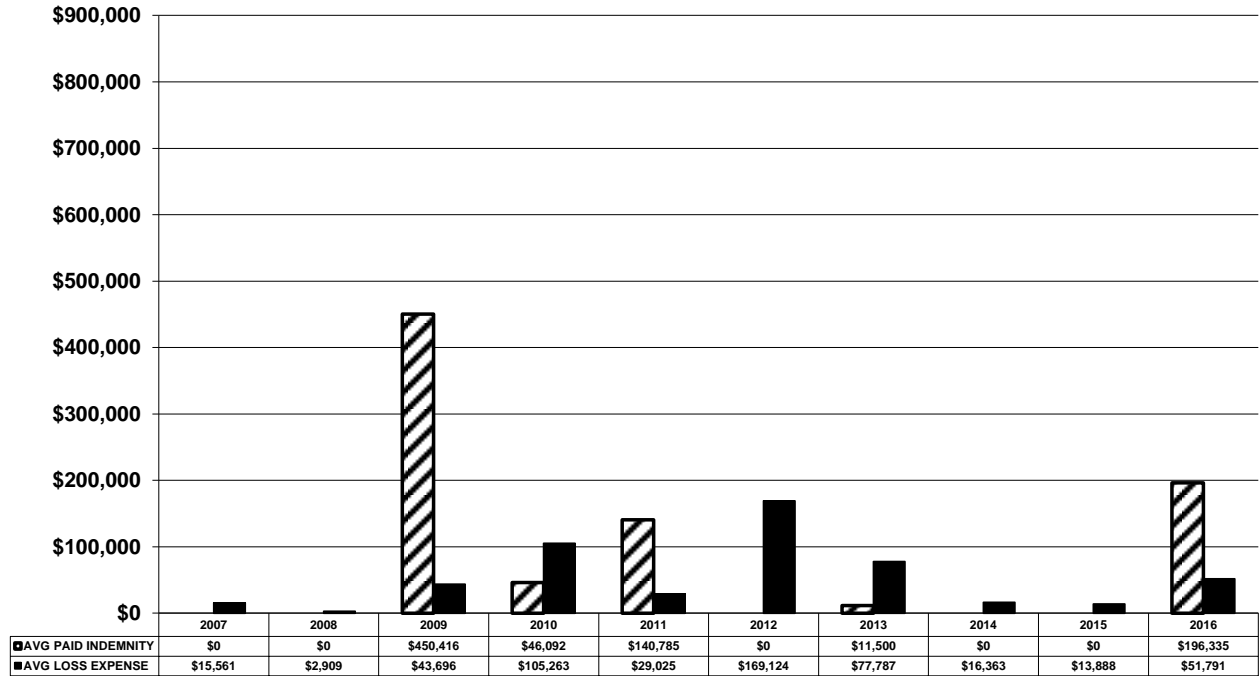


### CLAIM COUNT

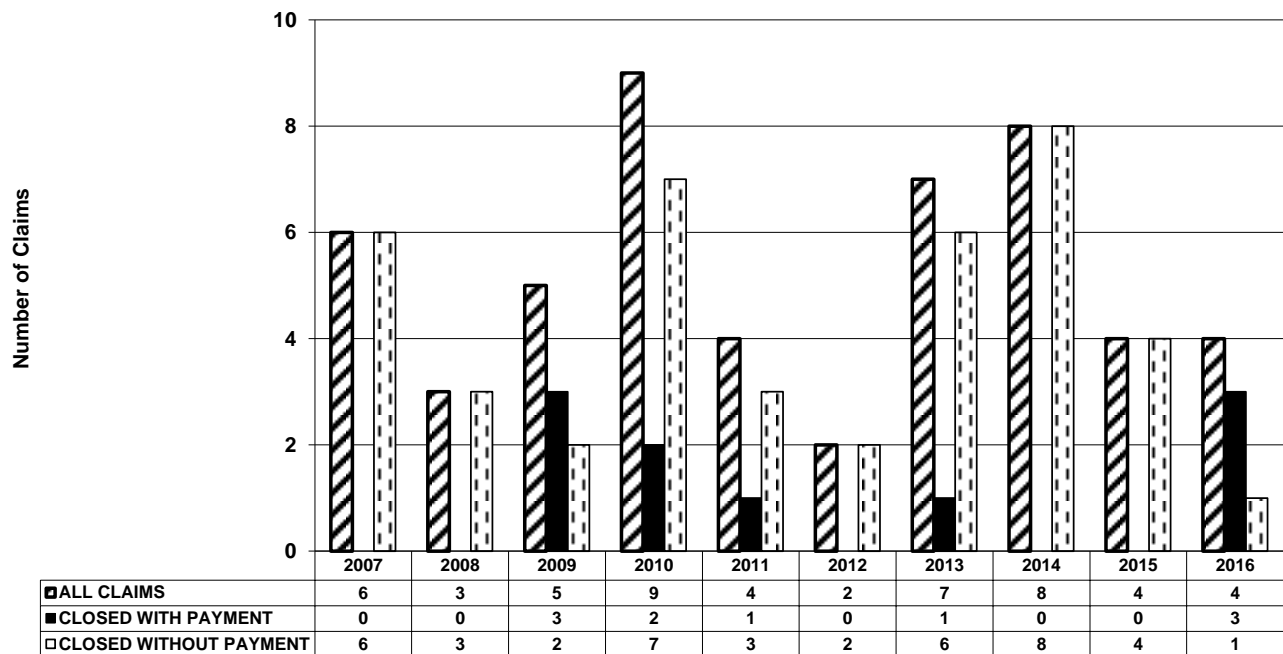


## AFTER JUDGMENT, BEFORE APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

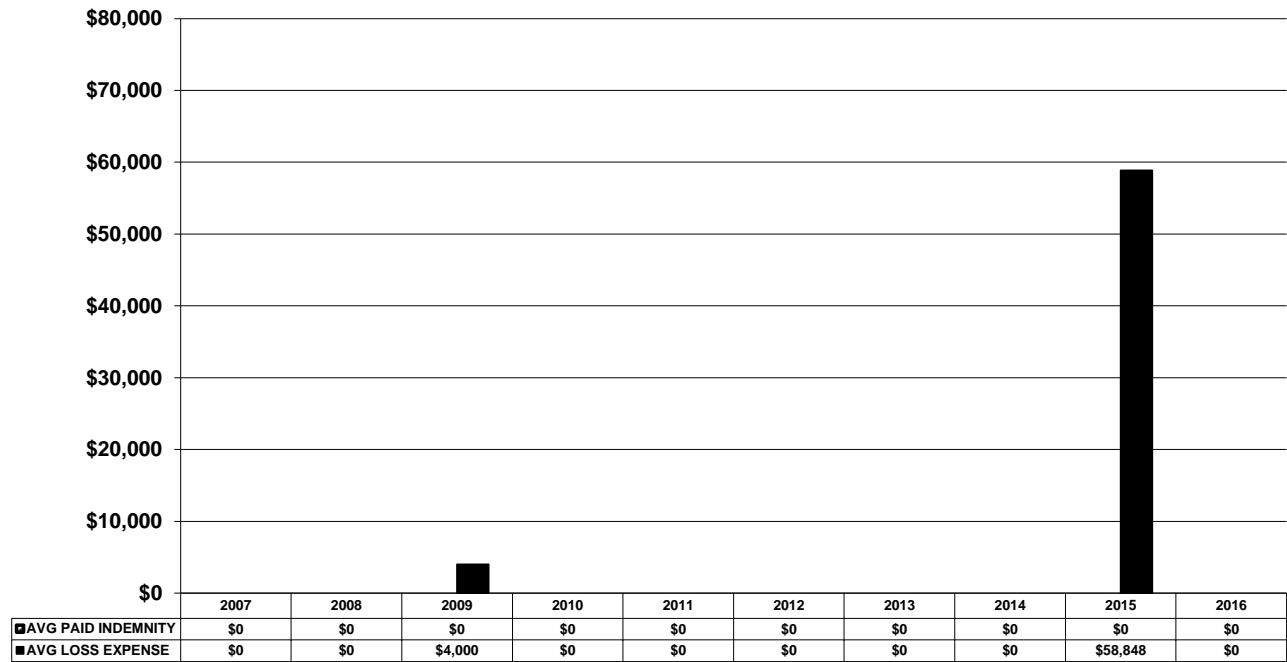


### CLAIM COUNT

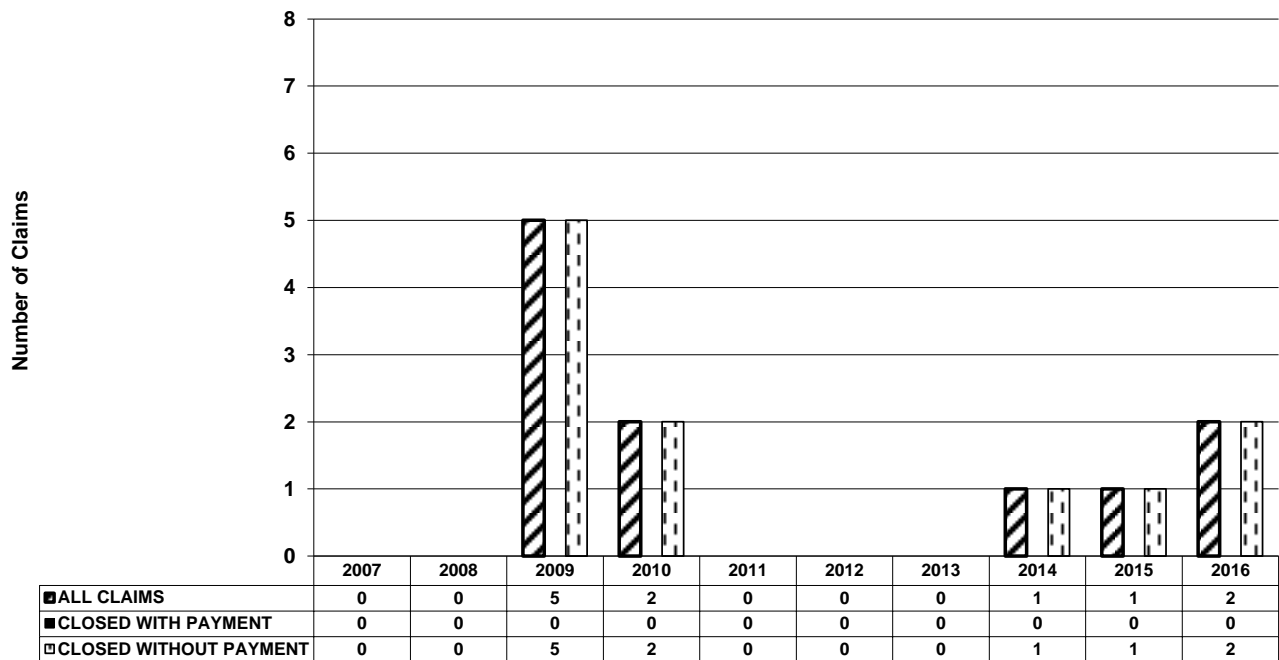


## DURING REVIEW PANEL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

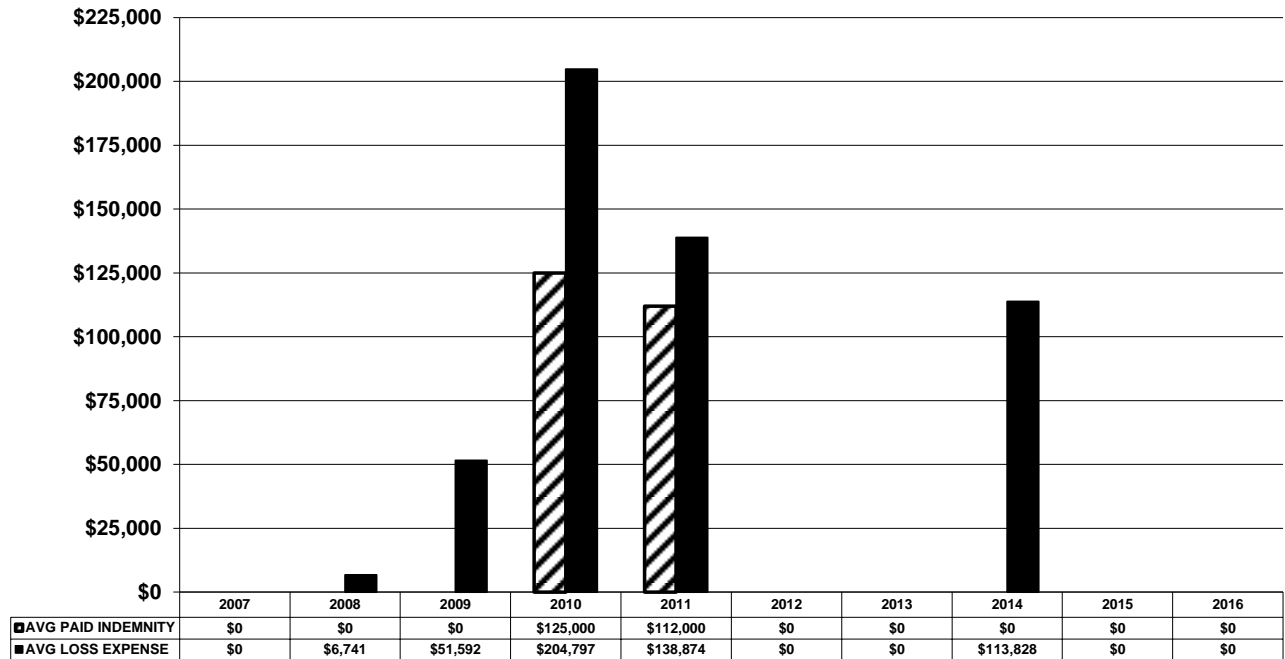


## CLAIM COUNT

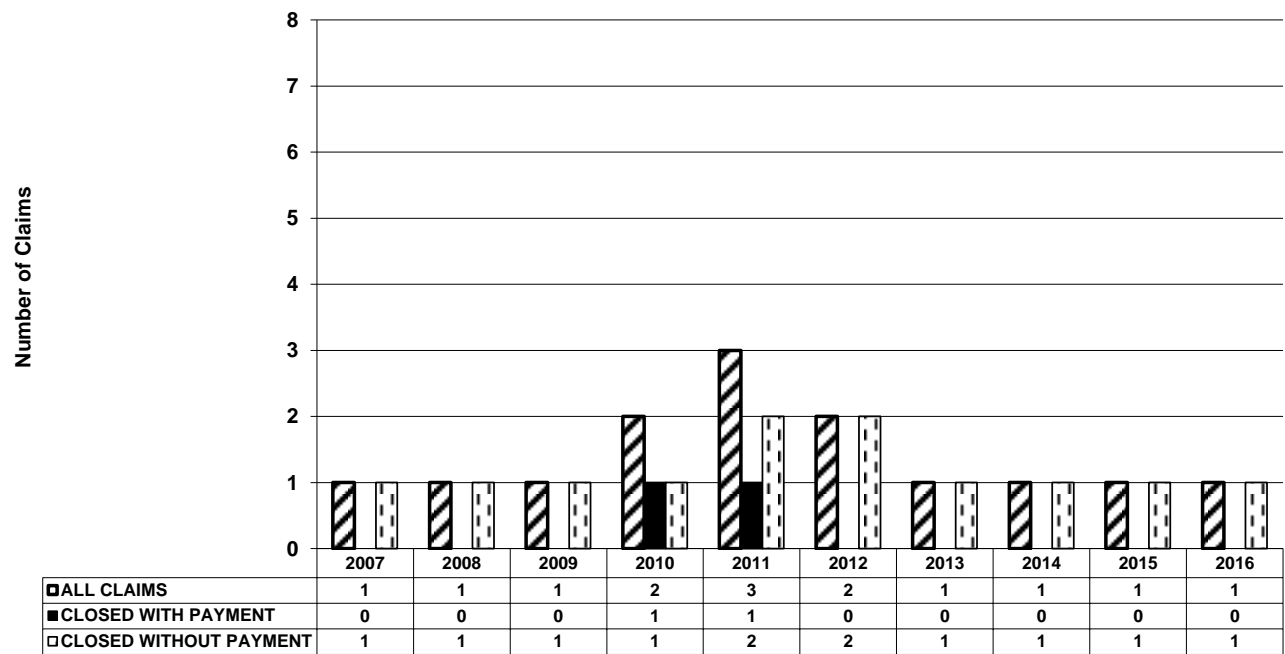


## DURING APPEAL

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

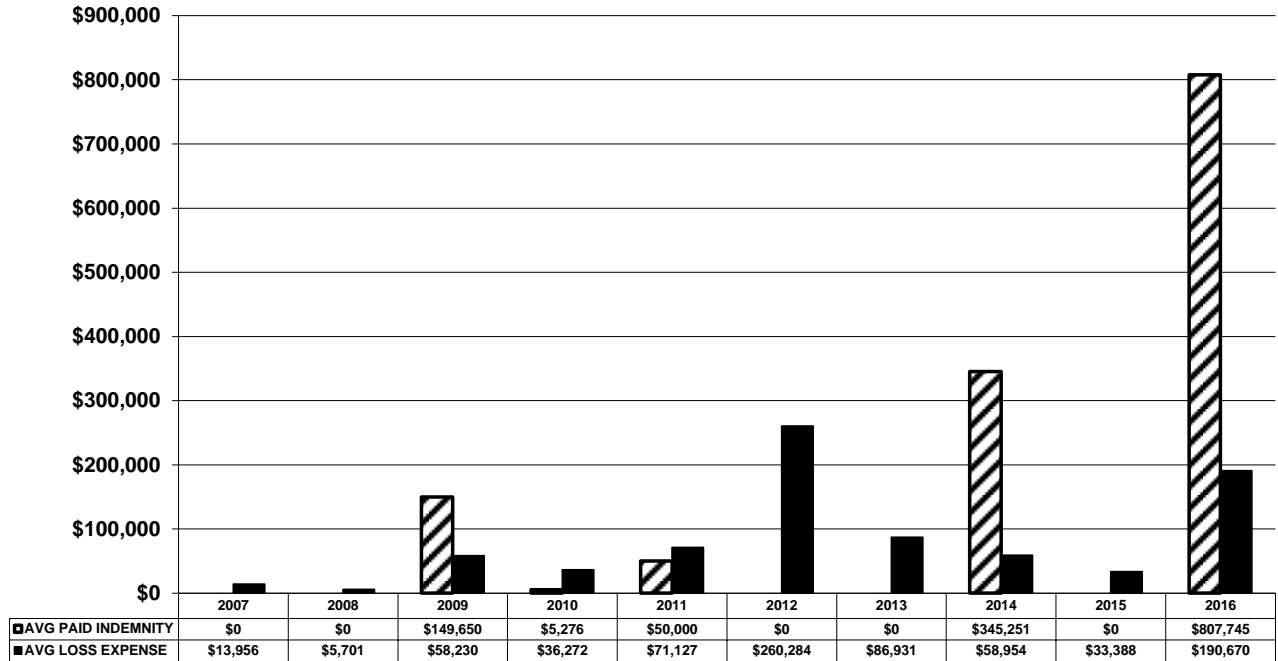


## CLAIM COUNT

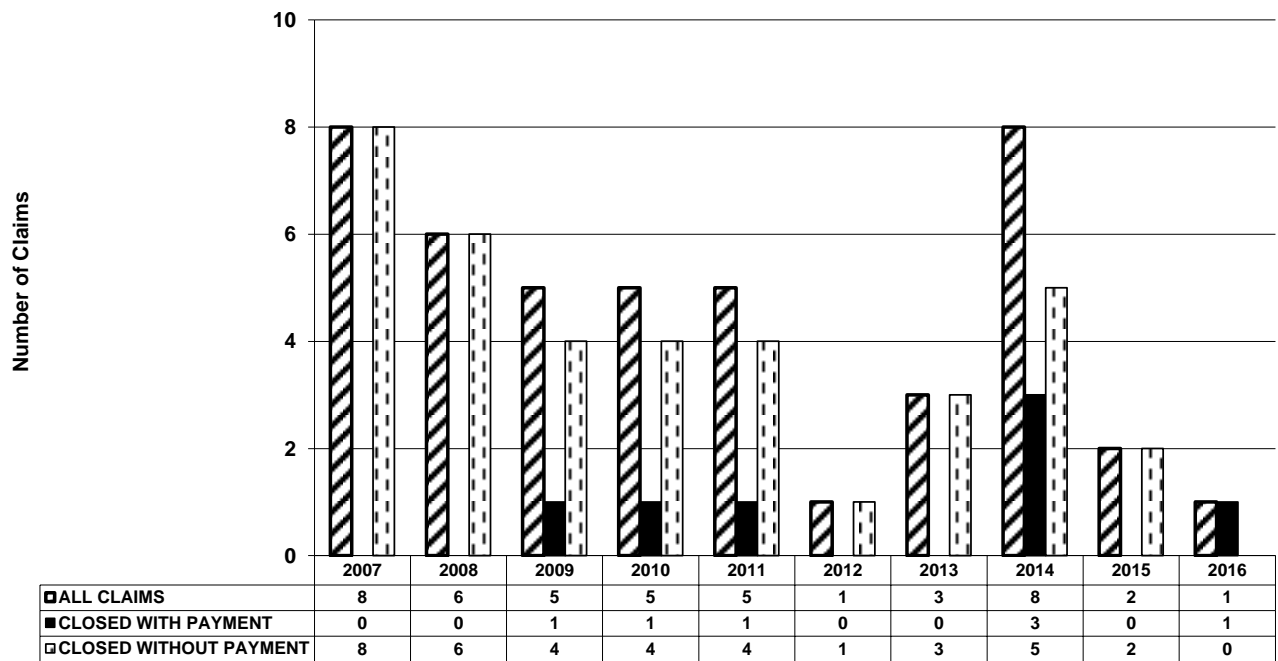


## DURING TRIAL OR HEARING

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT





**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
YEARS ADMITTED TO PRACTICE**



# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016**

YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	2,109	500	93.11%	\$127,152	\$63,575,981	93.92%	\$20,324
4 TO 10 YEARS	86	31	5.77%	\$93,423	\$2,896,122	4.28%	\$10,071
UNDER 4 YEARS	21	6	1.12%	\$203,392	\$1,220,350	1.80%	\$9,333
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2016**

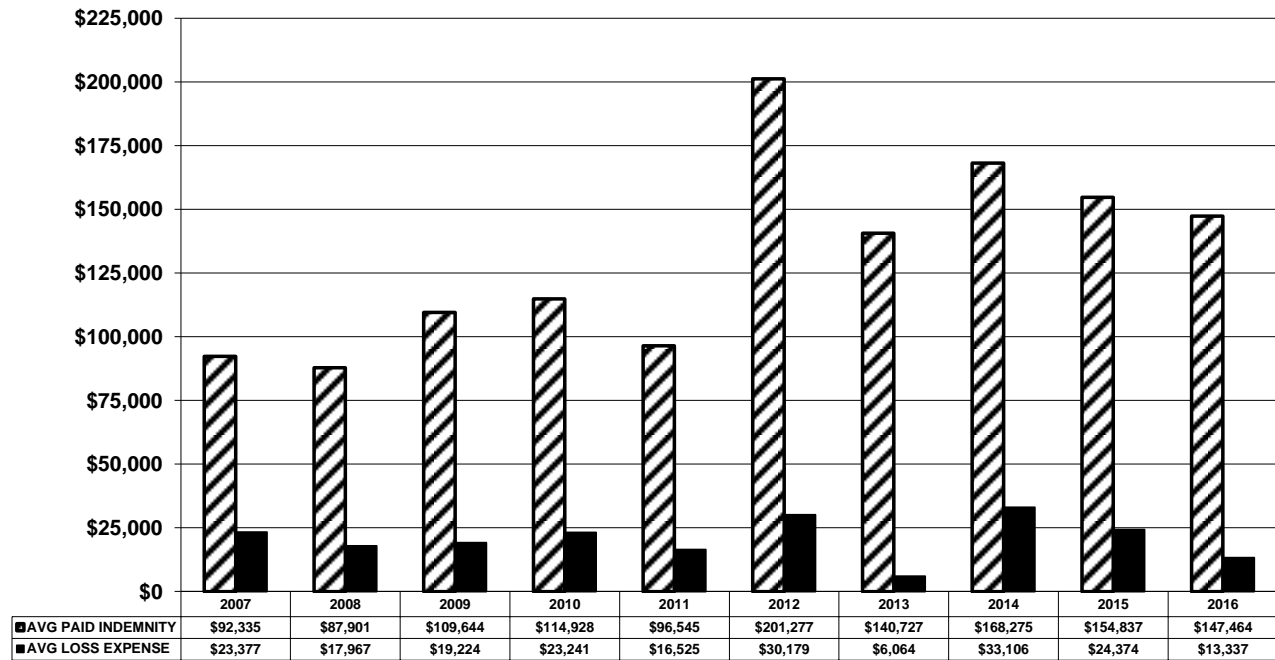
YEARS ADMITTED TO PRACTICE	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
OVER 10 YEARS	175	60	96.77%	\$147,464	\$8,847,865	98.39%	\$13,337
4 TO 10 YEARS	6	1	1.61%	\$50,000	\$50,000	0.56%	\$2,931
UNDER 4 YEARS	2	1	1.61%	\$95,000	\$95,000	1.06%	\$30,547
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

**TRENDS  
OF  
YEARS ADMITTED TO PRACTICE  
FOR 2016**

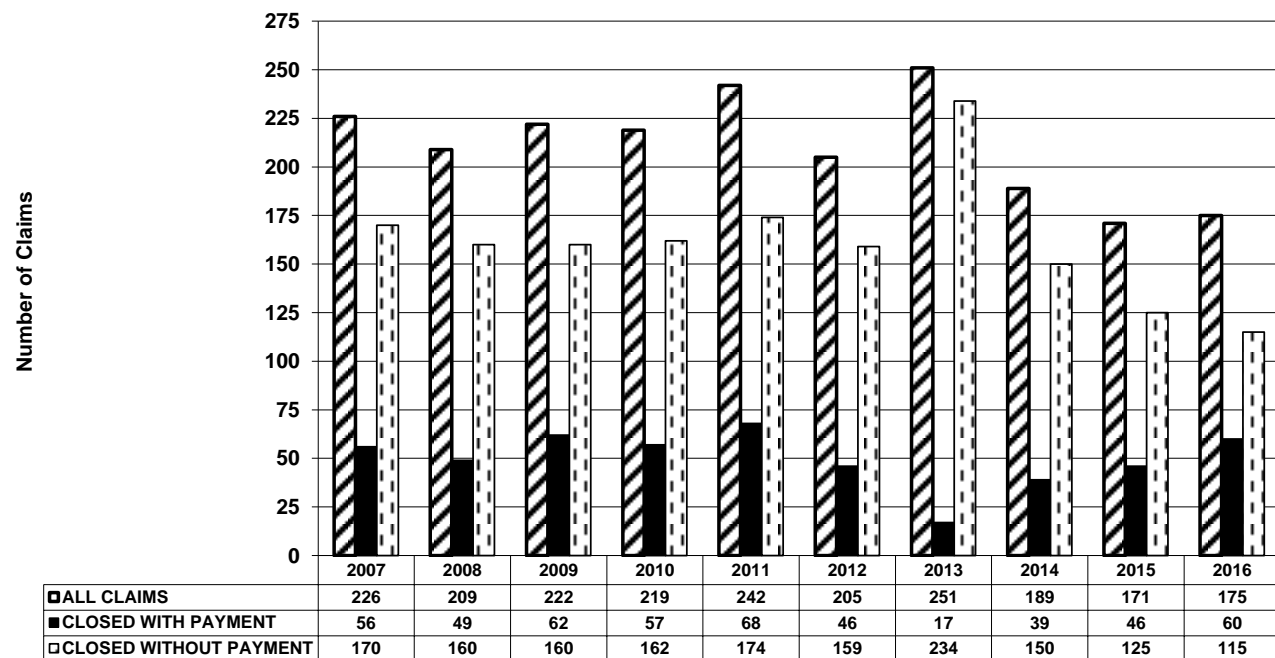


## OVER 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

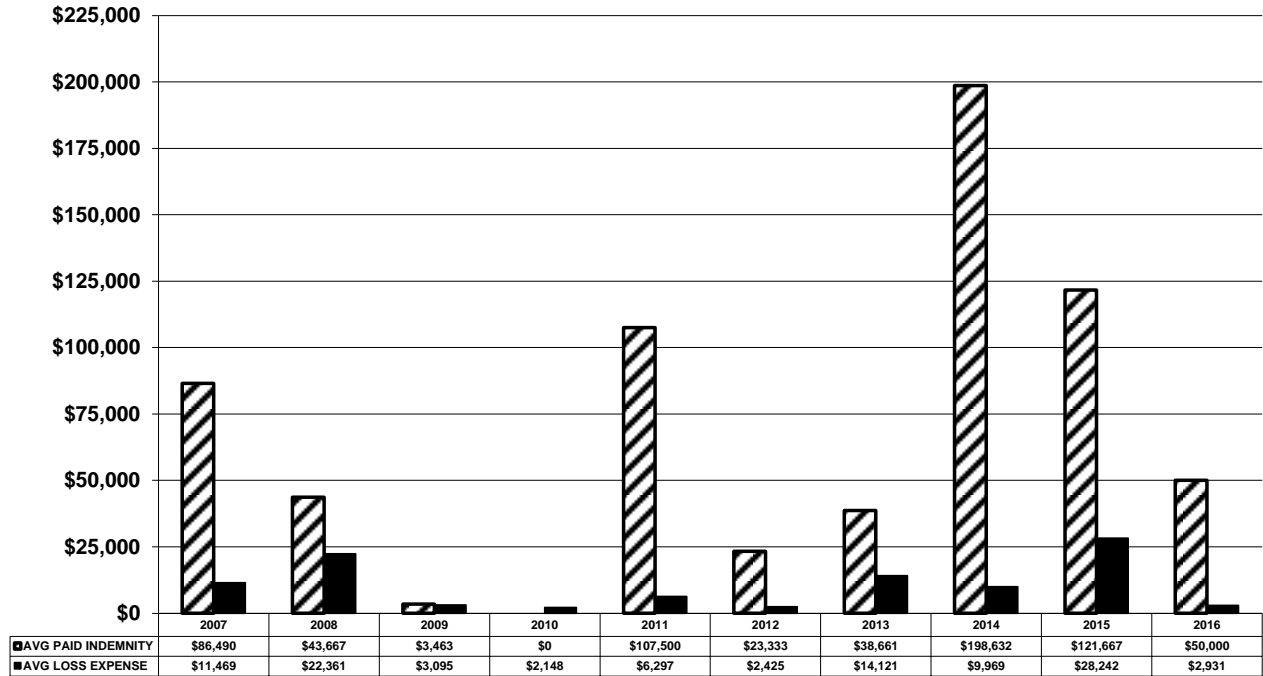


### CLAIM COUNT

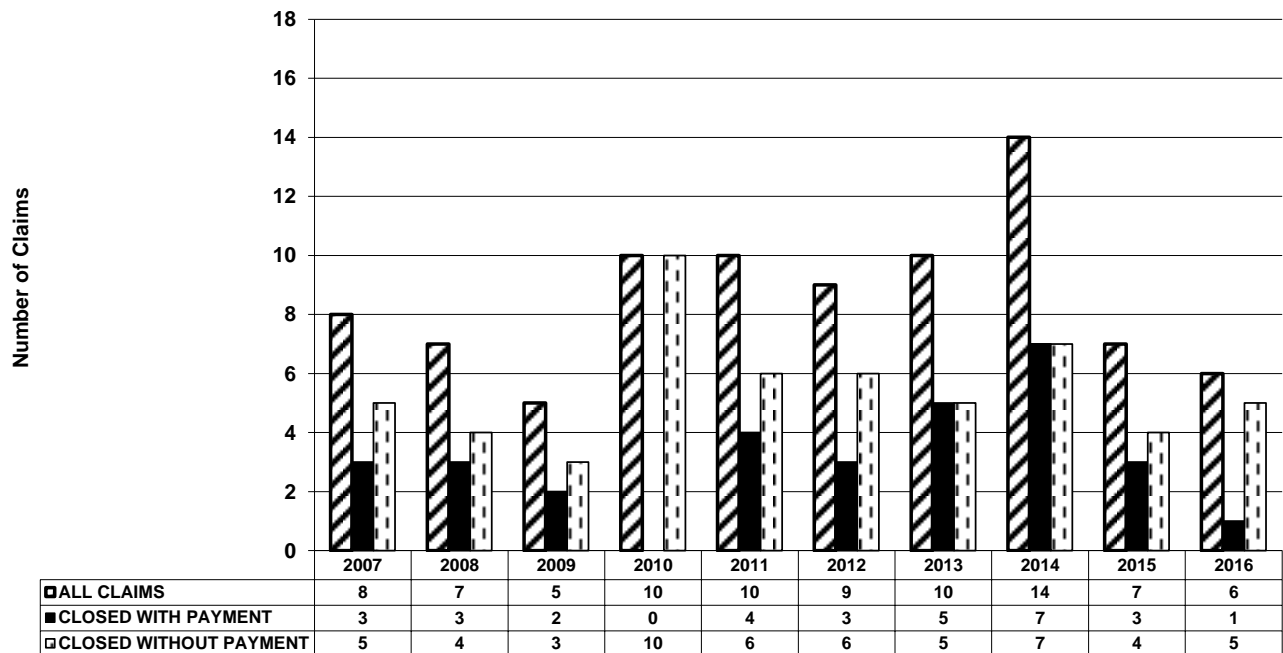


## 4 TO 10 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



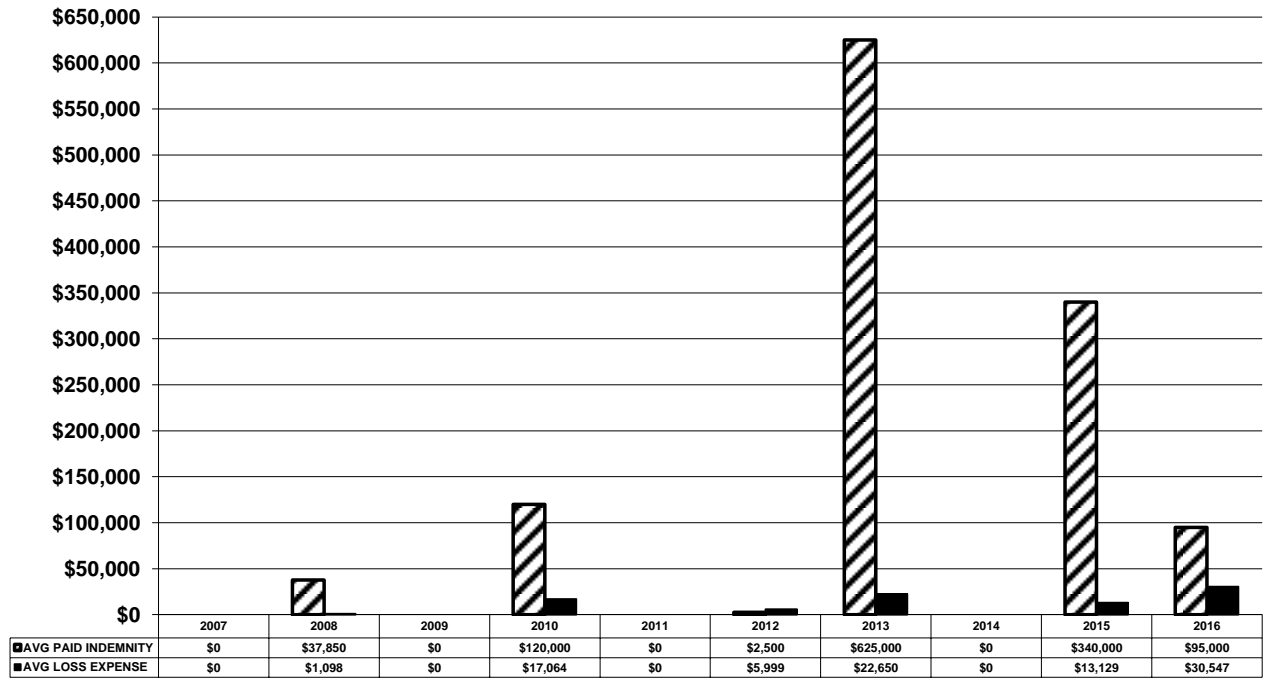
### CLAIM COUNT



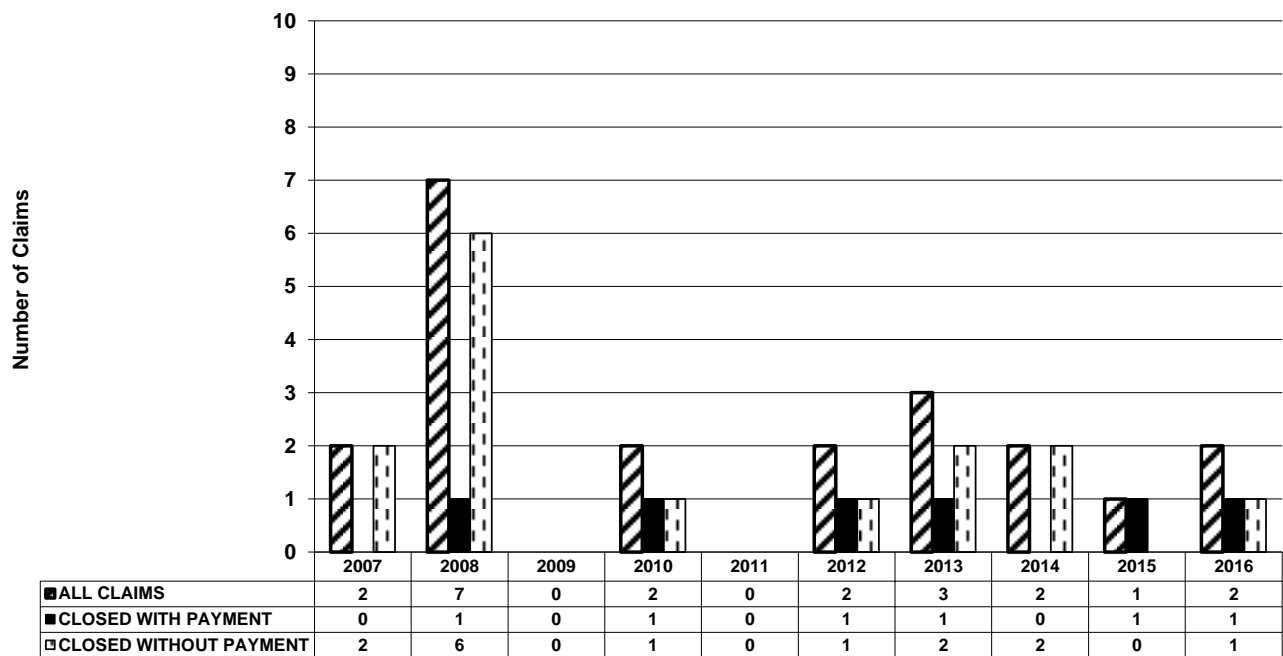


## UNDER 4 YEARS

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT





**TEN YEAR SUMMARY  
&  
2016 SUMMARY  
BY  
INSURED/CLAIMANT RELATIONSHIP**



# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS FOR YEARS 2007-2016**

INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	1,582	441	82.12%	\$138,261	\$60,973,292	90.07%	\$21,890
NON-CLIENT	622	93	17.32%	\$68,550	\$6,375,161	9.42%	\$13,033
MEMBER PRE-PAID LEGAL PLAN	8	3	0.56%	\$114,667	\$344,000	0.51%	\$72,719
FREE LEGAL SERVICE	4	0	0.00%	N/A	\$0	0.00%	\$151,454
TOTAL	2,216	537	100.00%	\$126,057	\$67,692,453	100.00%	\$19,822

# **LEGAL MALPRACTICE INSURANCE INDEMNITY ANALYSIS CLAIMS CLOSED IN 2016**

INSURED'S RELATIONSHIP TO THE CLAIMANT	ALL CLOSED CLAIMS	NUMBER OF PAID CLAIMS	PERCENT OF PAID CLAIMS	AVERAGE INDEMNITY PAID PER PAID CLAIM	TOTAL INDEMNITY	PERCENT OF TOTAL INDEMNITY	AVERAGE LOSS EXPENSE FOR ALL CLOSED CLAIMS
CLIENT OTHER THAN ABOVE	132	48	77.42%	\$171,740	\$8,243,508	91.67%	\$14,281
NON-CLIENT	51	14	22.58%	\$53,526	\$749,357	8.33%	\$10,343
TOTAL	183	62	100.00%	\$145,046	\$8,992,865	100.00%	\$13,184

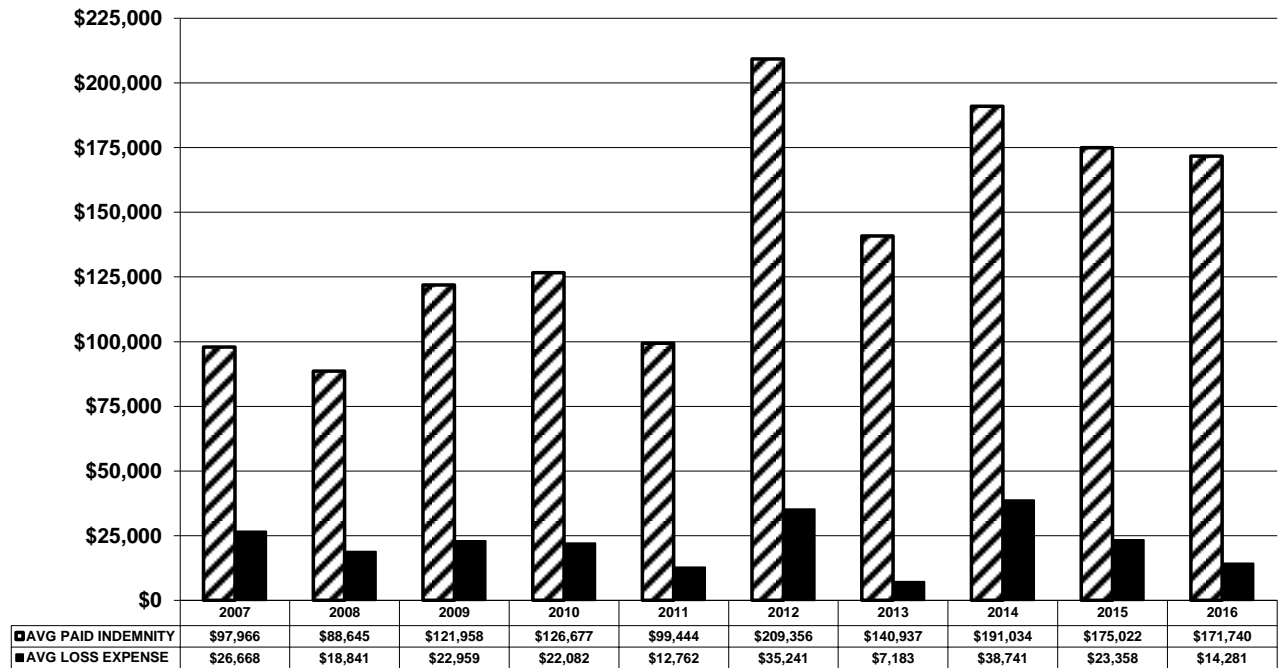
**TRENDS  
OF  
INSURED/CLAIMANT  
RELATIONSHIP  
FOR 2016**



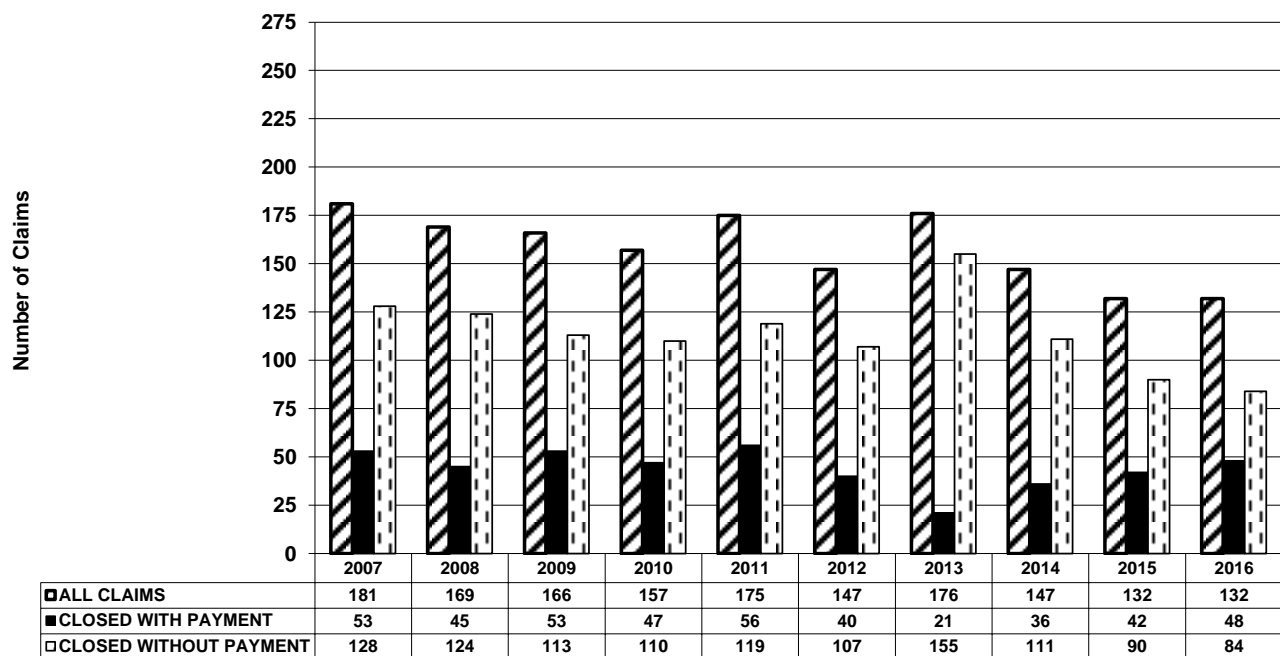


## CLIENT OTHER THAN FREE LEGAL SERVICE OR MEMBER OF PRE-PAID LEGAL PLAN

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE

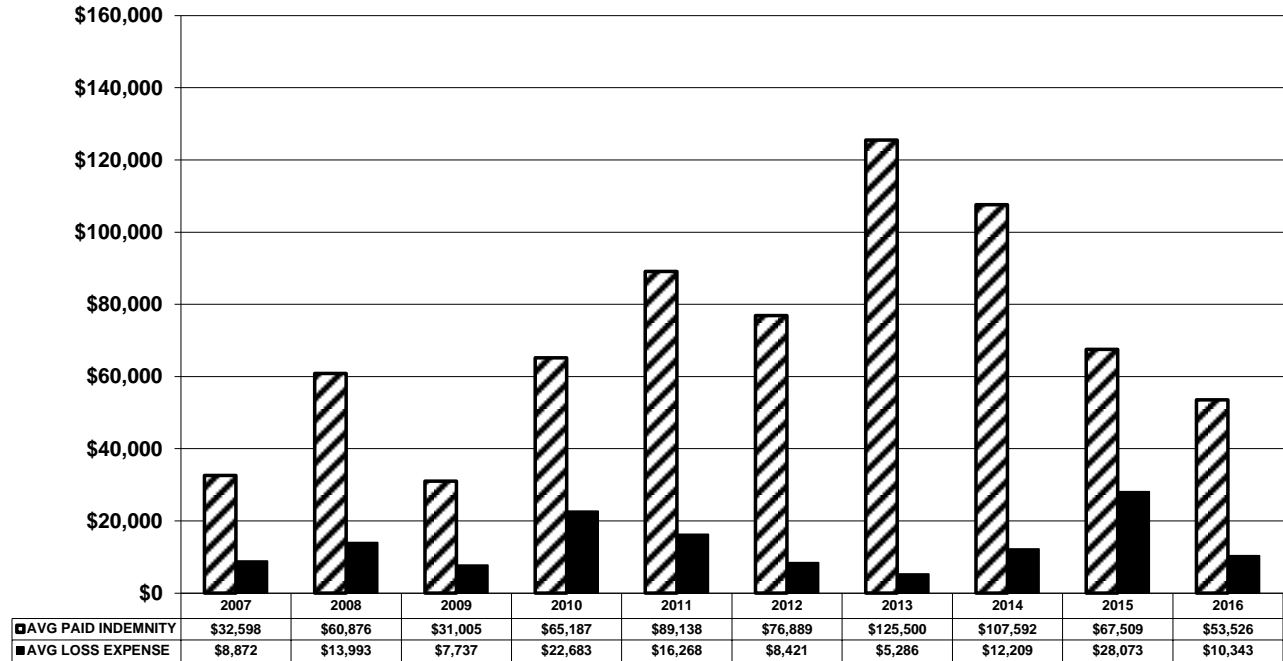


### CLAIM COUNT

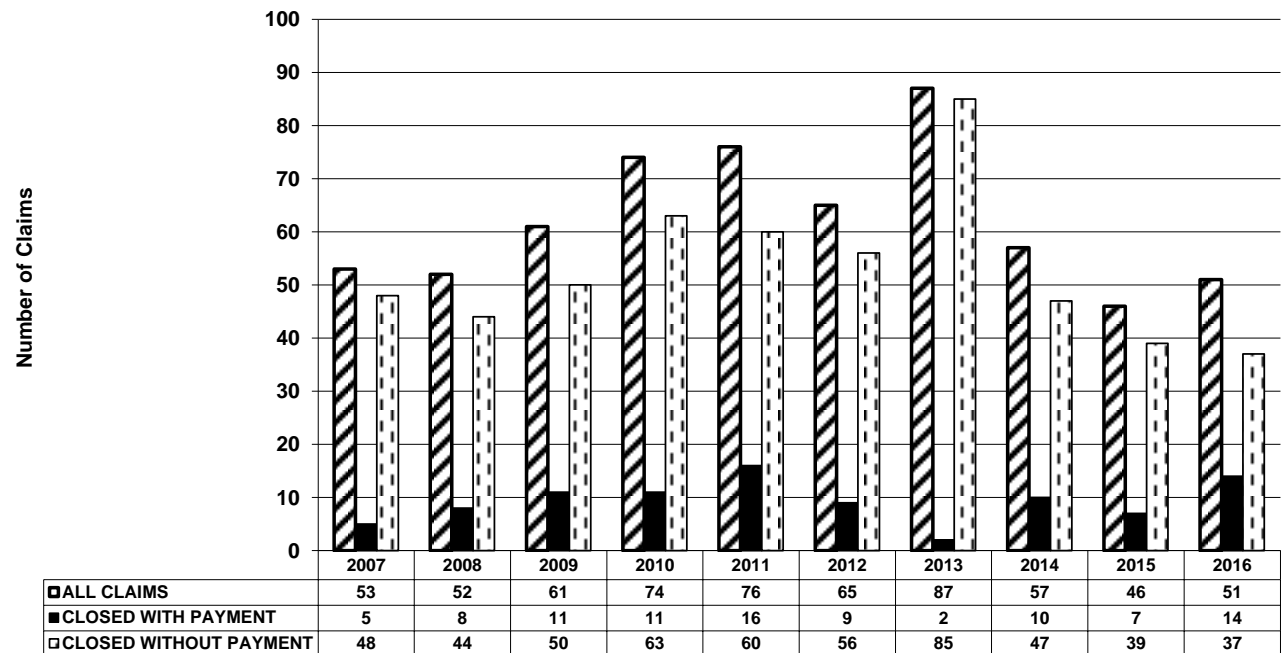


## NON-CLIENT

### AVERAGE PAID INDEMNITY & AVERAGE LOSS EXPENSE



### CLAIM COUNT



# **PREMIUM AND LOSS DATA**



# PAGE 19 SUPPLEMENT LEGAL MALPRACTICE EXPERIENCE WITH MARKET SHARE

## 2016 EXPERIENCE

NAIC Company Code	Company Name	Market Share	Written Premium	Earned Premium	Incurred Losses	Loss Ratio
29513	BAR PLAN MUTUAL INSURANCE COMPANY THE	63.15%	\$10,324,682	\$10,471,167	\$1,855,725	17.72%
20443	CONTINENTAL CASUALTY COMPANY	21.45%	\$3,507,662	\$3,534,883	\$1,935,613	54.76%
22292	HANOVER INSURANCE COMPANY THE	5.39%	\$881,416	\$920,311	\$353,148	38.37%
32450	ALPS PROPERTY & CASUALTY COMPANY	3.97%	\$649,323	\$601,730	\$27,431	4.56%
32603	BERKLEY INSURANCE COMPANY	1.37%	\$224,500	\$139,321	\$0	0.00%
37273	AXIS INSURANCE COMPANY	1.35%	\$220,951	\$224,956	\$605,832	269.31%
31194	TRAVELERS CASUALTY & SURETY CO OF AMER	1.28%	\$208,705	\$160,979	(\$10,105)	-6.28%
29459	TWIN CITY FIRE INSURANCE COMPANY	0.82%	\$133,756	\$137,185	\$6,005	4.38%
19518	CATLIN INSURANCE COMPANY INC	0.67%	\$109,785	\$108,809	\$1,186,733	1090.66%
22241	MEDMARC CASUALTY INSURANCE COMPANY	0.29%	\$47,268	\$39,487	(\$3,056)	-7.74%
22322	GREENWICH INSURANCE COMPANY	0.13%	\$21,722	\$21,238	\$6,643	31.28%
11000	SENTINEL INSURANCE COMPANY LTD	0.08%	\$12,287	\$12,165	\$0	0.00%
10510	CAROLINA CASUALTY INSURANCE COMPANY	0.03%	\$4,616	\$49,186	\$0	0.00%
29424	HARTFORD CASUALTY INSURANCE CO	0.02%	\$4,053	\$4,055	\$0	0.00%
11967	GENERAL STAR NATIONAL INS CO	0.00%	\$0	\$0	\$4,895	N/A
15865	NCMIC INSURANCE COMPANY	0.00%	\$0	\$0	\$993	N/A
16691	GREAT AMERICAN INSURANCE COMPANY	0.00%	\$0	\$0	(\$3,087)	N/A
21970	BEDIVERE INSURANCE COMPANY	0.00%	\$0	\$0	\$331,182	N/A
22136	GREAT AMERICAN INS COMPANY OF NEW YORK	0.00%	\$0	\$0	\$1,567	N/A
25585	WATFORD INSURANCE COMPANY	0.00%	\$0	\$0	(\$212,310)	N/A
27154	ATLANTIC SPECIALTY INSURANCE COMPANY	0.00%	\$0	\$0	\$201,881	N/A
TOTAL		100.00%	\$16,350,726	\$16,425,472	\$6,289,090	38.29%

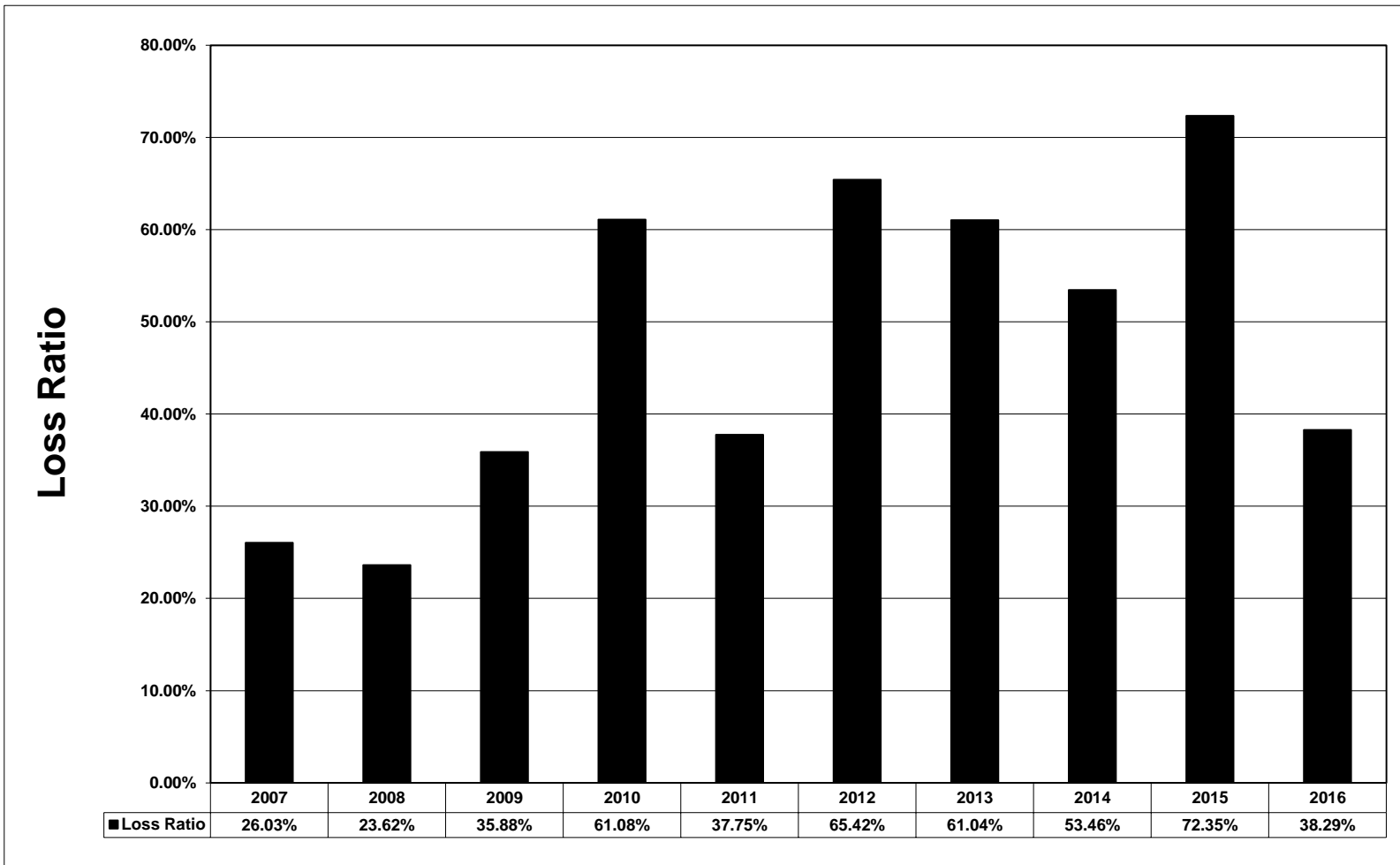
**PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE**

**TEN YEAR SUMMARY**

<b>YEAR</b>	<b>Written Premium</b>	<b>Earned Premium</b>	<b>Incurred Losses</b>	<b>Loss Ratio</b>
2007	\$17,727,731	\$17,152,684	\$4,464,212	26.03%
2008	\$16,324,591	\$16,766,853	\$3,959,872	23.62%
2009	\$15,787,723	\$15,994,807	\$5,738,199	35.88%
2010	\$14,955,313	\$15,124,731	\$9,238,427	61.08%
2011	\$14,269,499	\$14,608,084	\$5,514,132	37.75%
2012	\$15,356,950	\$15,088,454	\$9,871,352	65.42%
2013	\$15,843,263	\$15,221,120	\$9,291,232	61.04%
2014	\$16,725,395	\$16,787,627	\$8,975,108	53.46%
2015	\$16,452,459	\$16,412,220	\$11,873,680	72.35%
2016	\$16,350,726	\$16,425,472	\$6,289,090	38.29%
<b>10-YEAR TOTAL</b>	<b>\$159,793,650</b>	<b>\$159,582,052</b>	<b>\$75,215,304</b>	<b>47.13%</b>

PAGE 19 SUPPLEMENT  
LEGAL MALPRACTICE EXPERIENCE

TEN YEAR LOSS RATIO SUMMARY







## **Insurance Consumer Hotline**

Contact DIFP's Insurance Consumer Hotline  
if you have questions about your insurance policy  
or to file a complaint against an  
insurance company or agent:

**difp.mo.gov**

**800-726-7390**



# **DIFP**

Department of Insurance,  
Financial Institutions &  
Professional Registration

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PO Box 690  
Jefferson City, MO 65102

**JUNE 2017**